



# California Regulatory Notice Register

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JULY 4, 2008

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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## PROPOSED ACTION ON REGULATIONS

*Information contained in this document is published as received from agencies and is not edited by Thomson Reuters.*

### TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

#### CONFLICT-OF-INTEREST CODES

##### ADOPTION

STATE AGENCY: Office of Information Security  
and Privacy Protection

##### AMENDMENT

MULTI-COUNTY: Desert Community College  
District  
Lowell Joint School District

A written comment period has been established commencing on **July 4, 2008** and closing on **August 18, 2008**. Written comments should be directed to the Fair Political Practices Commission, Attention **Ashley Clarke**, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than **August 18, 2008**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

#### COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

#### EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

#### AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

#### REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

#### CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to **Ashley Clarke**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

## AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to **Ashley Clarke**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

## TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest code of the following:

### TULARE COUNTY OFFICE OF EDUCATION

A written comment period has been established commencing on **July 4, 2008** and closing on **August 18, 2008**. Written comments should be directed to the Fair Political Practices Commission, Attention Tara Stock, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code will be submitted to the Commission's Executive Director for his review; unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code, proposed pursuant to Government Code Section 87300, which designates, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code. Any written comments must be received no later than **August 18, 2008**. If a

public hearing is to be held, oral comments may be presented to the Commission at the hearing.

## COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

## EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

## AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

## REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

## CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to Tara Stock, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

## AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Tara Stock, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3434, subsection (b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on March 21, 2008. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than September 17, 2008.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on April 8, 2008. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later October 6, 2008.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on April 18, 2008. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later October 15, 2008.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on May 2, 2008. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than October 29, 2008.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on May 7, 2008. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than October 31, 2008.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on May 23, 2008. The Department proposes to

continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than November 19, 2008.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on June 4, 2008. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than November 27, 2008.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before August 18, 2008.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the probability of its spread, and the feasibility of its control or eradication (Food and Agricultural Code Section 5321).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

The amendments of 3434(b) established additional portions of Alameda, Contra Costa, Marin, Monterey, San Benito, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano and Sonoma counties as regulated areas. There is no existing, comparable federal regulation or statute regulating the intrastate movement.



### **COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS**

The Department of Food and Agriculture has determined that Section 3434 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce Section 3434. No reimbursement is required for Section 3434 under Section 17561 of the Government Code because all of the affected county agricultural commissioners requested the change in the regulation.

The Department also has determined that the amended regulation will involve no additional costs or savings to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State.

### **EFFECT ON HOUSING COSTS**

The Department has made an initial determination that the proposed actions will not affect housing costs.

### **EFFECT ON BUSINESSES**

The Department has made an initial determination that the proposed actions will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

### **COST IMPACT ON AFFECTED PRIVATE PERSON OR BUSINESSES**

The cost impact of the amended regulation on a representative private person or business located within the regulated area may be significant. An average infested ornamental nursery producing plants in one-gallon containers may incur initial costs of \$140 to \$218 per acre in eliminating the light brown apple moth to be in reasonable compliance with the proposed action. Approximately 65,000 one-gallon containers may be placed upon one acre. This translates into an initial increased production cost of \$0.002 to 0.003 per one gallon container. The actual costs may vary with the type of material used, size and production practices of the affected businesses.

However, nursery stock that is infested with the light brown apple moth does not meet the current requirements of Section 3060.2, Standards of Cleanliness,

California Code of Regulations (CCR), and cannot be sold. Therefore, there are no additional mandated costs of compliance due to this regulation.

### **ASSESSMENT**

The Department has made an assessment that the proposed adoption of the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

### **ALTERNATIVES CONSIDERED**

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

### **AUTHORITY**

The Department proposes to amend Section 3434 pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code.

### **REFERENCE**

The Department proposes this action to implement, interpret and make specific Sections 5301, 5302 and 5322 of the Food and Agricultural Code.

### **EFFECT ON SMALL BUSINESS**

The proposed amendment of this regulation may affect small businesses.

### **CONTACT**

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed to is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

## INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet Web site ([www.cdfa.ca.gov/cdfa.pendingregs](http://www.cdfa.ca.gov/cdfa.pendingregs)).

## AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

## TITLE 3. DEPARTMENT OF PESTICIDE REGULATION

Notification and Application—Specific Information  
DPR Regulation No. 08–002

## NOTICE OF PROPOSED REGULATORY ACTION

The Department of Pesticide Regulation (DPR) proposes to amend sections 6618, 6619, 6761.1, 6770, and 6771 of Title 3, California Code of Regulations (3 CCR). The proposed action would clarify the notification requirements prior to, and after, a pesticide application, including who is to be notified and the persons responsible for providing such notification; revise the requirements for application-specific information for fieldworkers; and clarify the specific activities allowed during the restricted entry interval (REI) and the requirements employers must meet in order to send fieldworkers into the field during the REI.

## SUBMITTAL OF COMMENTS

Any interested person may present comments in writing about the proposed action to the agency contact person named below. Written comments must be received no later than 5:00 p.m. on August 18, 2008. Comments regarding this proposed action may also be submitted via e-mail <[dpr08002@cdpr.ca.gov](mailto:dpr08002@cdpr.ca.gov)>, or by facsimile (FAX) transmission at (916) 324–1452.

A public hearing is not scheduled; however, a public hearing will be scheduled if any interested person submits a written request for a public hearing to DPR no later than 15 days prior to the close of the written comment period.<sup>1</sup>

## EFFECT ON SMALL BUSINESS

DPR has determined that the proposed regulatory action does affect small businesses.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

DPR's mission is to protect public health and the environment from adverse effects of pesticide use. The Food and Agricultural Code (FAC) requires that DPR adopt regulations that provide for safe working conditions for persons handling pesticides and working in and about pesticide-treated areas, including regulations on the subjects of notification, hazard communication, and early-entry activities.

DPR's current notification, hazard communication, and early-entry regulations were last amended in 1997 to incorporate the Federal Worker Protection Standard (WPS) into California regulations. DPR consulted with the U.S. Environmental Protection Agency (U.S. EPA) to ensure California maintains equivalency for the regulations.

Based on the review of DPR's Pesticide Illness Surveillance Program data, and issues raised in both DPR's Compliance Assessment Report and the U.S. EPA Region 9 Worker Protection Standard Assessment California Program Report, DPR has determined that amendments should be made to improve clarity and enforceability to regulatory sections dealing with notification, hazard communication, and early entry.

Proposed sections 6618 and 6619 would clarify the notification requirements required prior to, and after, a pesticide application. Specifically, this proposal would:

- Separate agricultural and nonagricultural use notification requirements into two subsections to improve clarity and ambiguity.

<sup>1</sup> If you have special accommodation or language needs, please include this in your request for a public hearing. TTY/TTD speech-to-speech users may dial 7–1–1 for the California Relay Service.

- Clarify who is ultimately responsible for notifying employees.
- Require the pesticide applicator to re-notice the operator of the property if the application does not take place on the date scheduled.
- Introduce a dual responsibility to both the operator of the property and any contractor hired to comply with these notification requirements to employees.
- Require notification to people (e.g. irrigation district employees, Pacific Gas and Electric crews, etc.), other than their employees, when there is reason to believe they may enter a field during the REI.

Proposed section 6761.1 would:

- Require application-specific information be displayed before any fieldworkers are allowed to walk within 1/4 mile of the treated field.
- Require the operator of the property and any contractor hired by the operator to display a description of the location of the application-specific information at the worksite whenever their fieldworkers are working in a treated field.

Proposed section 6770 would:

- Clarify who is ultimately responsible for assuring that employees will not enter a field on the date of a scheduled application or after a field is treated (during the REI).

Proposed section 6771 would:

- Require an employer to inform the employee of the specific restrictions and conditions pursuant to section 6770 prior to allowing or directing any employee to enter a field during an REI to perform an early entry task.

#### **IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

DPR has determined that the proposed regulatory action does not impose a mandate on local agencies or school districts, nor does it require reimbursement by the state pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code because the regulatory action does not constitute a “new program or higher level of service of an existing program” within the meaning of section 6 of Article XIII of the California Constitution. DPR has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

#### **COSTS OR SAVINGS TO STATE AGENCIES**

DPR has determined that no savings or increased costs to any agency will result from the proposed regulatory actions.

#### **EFFECT ON FEDERAL FUNDING TO THE STATE**

DPR has determined that no costs or savings in federal funding to the state will result from the proposed regulatory actions.

#### **EFFECT ON HOUSING COSTS**

DPR has made an initial determination that the proposed actions will have no effect on housing costs.

#### **SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES**

DPR has made an initial determination that adoption of this regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### **COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES**

DPR has made an initial determination that the adoption of this regulation will not have a significant cost impact on representative private persons or businesses. DPR is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### **IMPACT ON THE CREATION, ELIMINATION, OR EXPANSION OF JOBS**

DPR has determined it is unlikely the proposed regulatory action will impact the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business with the State of California.

#### **CONSIDERATION OF ALTERNATIVES**

DPR must determine that no reasonable alternatives considered by the agency, or that have otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective



and less burdensome to affected private persons or businesses than the regulatory action.

#### AUTHORITY

This regulatory action is taken pursuant to the authority vested by FAC sections 11456, 12976, and 12981.

#### REFERENCE

This regulatory action is to implement, interpret, or make specific FAC sections 11501, 12973, 12980, and 12981; and Business and Professions Code section 8538.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

DPR has prepared an Initial Statement of Reasons, and has available the express terms of the proposed action, all of the information upon which the proposal is based, and a rulemaking file. A copy of the Initial Statement of Reasons and the proposed text of the regulation may be obtained from the agency contact person named in this notice. The information upon which DPR relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the comment period, DPR may make the regulation permanent if it remains substantially the same as described in the Informative Digest. If DPR does make changes to the regulation, the modified text will be made available for at least 15 days prior to adoption. Requests for the modified text should be addressed to the agency contact person named in this notice. DPR will accept written comments on any changes for 15 days after the modified text is made available.

#### AGENCY CONTACT

Written comments about the proposed regulatory action; requests for a copy of the Initial Statement of Reasons, the proposed text of the regulation, and a public hearing; and inquiries regarding the rulemaking file may be directed to:

Linda Irokawa-Otani, Regulations Coordinator  
Department of Pesticide Regulation  
1001 I Street, P.O. Box 4015  
Sacramento, California 95812-4015  
(916) 445-3991

Questions on the substance of the proposed regulatory action, particularly technical or historical questions concerning these regulations, may be directed to:

Kevin Solari, Program Specialist  
Worker Health and Safety Branch  
Department of Pesticide Regulation  
(916) 323-7614

This Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text of the regulation are also available on DPR's Internet Home Page at <<http://www.cdpr.ca.gov>>.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code section 11346.9(a) may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on DPR's Internet Home Page and accessed at <<http://www.cdpr.ca.gov>>.

### TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

#### NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

**PUBLIC MEETING:** On **August 21, 2008**, at  
10:00 a.m.  
in the Auditorium of the State  
Resources Building,  
1416 9th Street, Sacramento,  
California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

**PUBLIC HEARING:** On **August 21, 2008**, following the Public Meeting,  
in the Auditorium of the State  
Resources Building,  
1416 9th Street, Sacramento,  
California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

**BUSINESS**

**MEETING:** On **August 21, 2008**, following the Public Hearing, in the Auditorium of the State Resources Building, 1416 9th Street, Sacramento, California.

At the Business Meeting, the Board will conduct its monthly business.

**DISABILITY ACCOMMODATION NOTICE**

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, General Industry Safety Or-

ders of the California Code of Regulations, as indicated below, at its Public Hearing on **August 21, 2008**.

1. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7,  
Article 109  
Section 5199  
**Aerosol Transmissible Diseases**
2. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7,  
Article 109  
New Section 5199.1  
**Aerosol Transmissible Diseases—  
Zoonotics**

Descriptions of the proposed changes are as follows:

1. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7,  
Article 109  
Section 5199  
**Aerosol Transmissible Diseases**

**INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW**

Pursuant to California Labor Code Section 142.3, the Occupational Safety and Health Standards Board (Board) may adopt, amend, or repeal occupational safety and health standards or orders. Section 142.3 permits the Board to prescribe, where appropriate, suitable protective equipment and control or technological procedures to be used in connection with occupational hazards and provide for monitoring or measuring employee exposure for their protection.

The Division of Occupational Safety and Health (Division) is proposing that the Board add a new Section 5199 to control aerosol transmissible disease hazards. Employees in health care and other high-risk environments face new and emerging infectious disease threats, such as Severe Acute Respiratory Syndrome (SARS) and potentially pandemic influenza strains, as well as long-standing or re-emerging threats, such as tuberculosis (TB) and pertussis. The effect of this proposed section would be to require employers to implement common infection control measures in order to protect employees from those threats and to enable the employees to continue to provide health care and other critical services without unreasonably jeopardizing their health. The proposed section is based on established guidelines and practices. The purpose of this standard is to identify to the regulated public those infection control measures which are necessary to protect employees, and to provide the Division with the authority to enforce these

protective measures in accordance with its legislative mandate.

The proposed standard would apply in health care and in other environments, such as correctional facilities, homeless shelters, and drug treatment programs, where employees are at increased risk of exposure to persons who are capable of transmitting infection. It would also apply to laboratories which handle materials that may be a source of aerosol transmissible pathogens (ATPs), and to pathologists, coroners' offices, medical examiners and mortuaries that perform aerosol-generating procedures on cadavers which are suspected or confirmed to be infected with ATPs. The effect of this new section would be to require employers to establish control measures to protect employees from exposures to aerosol transmissible pathogens that can cause significant disease. All employers covered by this standard would be required to develop and implement procedures to minimize employee exposures to ATPs and to provide appropriate training. Much of this training is currently required as part of the Injury and Illness Prevention Program (IIPP), required by Section 3203. The specific effects of the proposed standard and the related federal equivalency of specific sections are discussed in detail below.

Health care workers and workers in related occupations or who are exposed in other high-risk environments are at increased risk of contracting tuberculosis, SARS, and other infectious diseases which are spread through respiratory secretions which are exhaled or expelled through coughing, sneezing, etc. Infection control professionals empirically categorize diseases which are transmitted by aerosols (ATDs) into two categories, those requiring droplet precautions, such as pertussis, diphtheria, mumps and meningococcal disease, and those requiring airborne infection isolation, such as tuberculosis, SARS, smallpox, and measles. Because the predominant route of those diseases requiring droplet precautions is considered to be near field exposure (within one to two meters of the source) to droplets greater than 5 microns (um) in diameter, dedicated ventilation systems and the use of respiratory protection is not included in recommendations for those diseases by public health authorities such as the United States Centers for Disease Control and Prevention (CDC). Public health guidelines recommend that patients in health care facilities, who are infectious with diseases that are primarily spread through the inhalation of smaller pathogen-containing droplet nuclei, small particles or dusts, be provided with airborne infection isolation (AII) facilities. All facilities include isolation rooms or other areas that have special ventilation systems, and require the use of respirators by employees who enter into the area where those patients are kept.

Proposed Section 5199 would incorporate these generally accepted guidelines, and establish requirements to protect employees, that are consistent with these practices. A list of currently recognized pathogens requiring droplet precautions or airborne infection isolation is incorporated into Appendix A. Based in part on the recent experience with SARS, proposed Section 5199 also would require airborne infection isolation be provided for novel or unknown pathogens that cause serious human disease, and for which there is insufficient evidence to establish that there is not a significant airborne route of exposure.

The infection control profession has also recognized that persons who are infectious with diseases requiring either droplet precautions or airborne infection isolation may manifest similar signs and symptoms and that there is a particular risk of transmission during the period when a disease may not be identified, and treatment has not yet begun. The CDC has published guidelines for source control measures, such as providing tissues and hand hygiene materials to the patient so that they may cover their cough, or providing a surgical mask to a coughing patient. These procedures are designed to reduce the concentration of infectious aerosols by capturing some of the expelled material. Proposed Section 5199 would require all employers covered by this section who have employees potentially exposed to persons who are capable of transmitting infection, to adopt source control measures, except where it is not feasible in field operations.

Currently, there is no California standard or federal Occupational Safety and Health Administration (OSHA) standard which addresses exposures to aerosol transmissible diseases in a comprehensive manner. Employers in health care and related industries should address infectious disease hazards through their IIPP. Employers who provide respirators for protection against *M. Tuberculosis* and other infectious pathogens are required to comply with Section 5144. Other general provisions of Title 8 which can be applied to the control of employee exposures to aerosol transmissible diseases include Article 9, Sanitation, and Sections 5142 and 5143 that apply to ventilation systems. Emergency responses to releases of biological agents are regulated by Section 5192.

### **Federal Equivalence**

There is no federal standard that is equivalent to the proposed standard or to Section 3203. The proposed standard refers to several existing standards which are equivalent to federal standards, including Section 5192 which is equivalent to 29 CFR 1910.120, Section 14300 et seq. which is equivalent to 29 CFR 1904, Section



3204 which is equivalent to 29 CFR 1910.1020, and Section 5193 equivalent to 29 CFR 1030.

This proposal is generally consistent with the federal OSHA Respiratory Protection standard, 29 CFR 1910.134, with two exceptions. The first is that this proposal would allow the use of an alternative questionnaire for medical evaluation for respirator use. Occupational health physicians who participated in the advisory process have stated this questionnaire would provide equivalent safety to the currently mandated questionnaire in Section 5144, and in 29 CFR 1910.134.

The second exception is in regards to annual fit-testing for respirators provided for non-high hazard procedures. The proposed standard would create an exception which will expire on January 1, 2014, permitting employers to extend the fit-test interval to two years during this period. The intent of this exception is to ensure adequate protection for employees while permitting employers to undertake other control measures to reduce ATD risks to employees. The National Institute for Occupational Safety and Health (NIOSH) is currently conducting a study to evaluate the effectiveness of annual fit-testing in respiratory protection programs, and this study is expected to be completed before the exception expires.

The federal OSHA standard requires annual fit-testing; however, federal OSHA standards do not specify the circumstances under which respirators must be used to protect against exposures to infectious aerosols. Federal OSHA standards do not specify the procedures for which respirators must be used or the diseases for which this protection is required, other than tuberculosis. The proposal provides equivalent protection because it clearly requires respirator use in exposure scenarios in which employees are at increased risk, including for diseases such as pandemic flu, and because it specifies the use of a more protective respirator for high hazard procedures. The respirator section of the proposal is at least as effective as the federal standard in protecting employees against infectious aerosols.

In addition, the proposal includes other requirements that will reduce the likelihood of an employee becoming infected. Ventilation, source control measures, and other engineering and work practice controls will reduce the concentration of pathogens in the environment. Vaccination will reduce the susceptibility of the employee to certain infections. Training will improve the employee's ability to use control measures effectively. Early identification and prompt referral of suspected cases will permit the early institution of isolation precautions to prevent disease transmission. Personal protective equipment will also serve to reduce exposures via non-aerosol routes, such as contact with mucous membranes. Therefore, taken as a whole, the

protection provided by this proposal is at least as effective as the federal standard.

### **Specific Effects of the Proposed Standard**

Proposed Section 5199 would divide employers into three categories, based on the types of exposures and work settings: 1) referring employers, 2) laboratory operations, and 3) employers who provide services to patients with airborne infectious diseases or employers who perform aerosolizing procedures on cadavers which may be infected with airborne infectious pathogens.

The proposed standard would apply to occupational exposure in hospitals and other health care settings, in facilities that are designated to receive persons arriving from the scene of an uncontrolled release of biological agents, in long-term health care facilities and hospices, in homeless shelters, in correctional facilities, in facilities that offer treatment for drug abuse, in facilities that perform aerosol generating procedures on cadavers potentially infected with ATPs, and in laboratories. Subsection (a)(1)(G) would provide authority to the Chief of the Division of Occupational Safety and Health to issue an order to take special action to a facility, service or operation that the Division has found must comply with this standard in order to protect employees from ATD risks.

The effect of subsection (a)(2) is to exempt from this standard outpatient dental offices and clinics that screen patients for aerosol transmissible diseases and do not perform aerosol-generating procedures on those patients. It also would exempt outpatient medical specialty offices that do not diagnose, treat or perform aerosol generating procedures on persons with an ATD, and which screen patients for those diseases and refer them to an appropriate medical provider for further evaluation.

The proposed standard restates existing California law that employers must provide during the employee's working hours, at a reasonable time and place for the employee, and at no cost to the employee all safeguards required by this standard, including personal protective equipment, respirators, training and medical surveillance. The effect of this provision is to inform employers and employees of existing legal requirements.

Subsection (b) of the proposed standard includes a number of definitions. The effect of these definitions is to create a set of standard terms with a common understanding as they apply to this standard.

### **Referring Employers**

"Referring employers" are employers who would be within the scope of this standard who do not provide services beyond first aid and initial treatment to patients requiring airborne infection isolation (airborne infec-



tious disease (AirID) cases or suspected cases) and who do not perform aerosolizing procedures on cadavers potentially infected with ATPs. These employers would be required to comply only with subsections (a), (c), and (j) and with specifically referenced portions of other subsections. Most of the employers within the scope of this standard, including most medical offices and clinics, homeless shelters, drug treatment programs, hospices, long-term care facilities, and jails, would be referring employers. This type of employer screens persons entering the work setting and refers people who are suspected or confirmed as being infectious with a disease requiring airborne infection isolation to a hospital or other appropriate facility in a timely manner. Because these employers do not treat, house or otherwise manage patients requiring airborne infection isolation, they are not required to implement certain engineering controls and other protective measures.

The effect of subsection (c) is to require referring employers to establish infection control procedures, which may be incorporated into the employer's IIPP, or other infection control or communicable disease control plan. The procedures would be required to be reviewed annually. These procedures would include:

- designation of a person who is responsible for implementing the procedures;
- written source control procedures;
- procedures for timely referral of cases or suspected cases of airborne infectious diseases, or in the case of employers in non-medical settings, procedures for the timely referral to a health care provider for persons exhibiting readily observable signs of aerosol transmissible diseases;
- procedures to communicate with employees and other employers regarding the infectious status of patients;
- feasible risk reduction measures to protect employees during the time that a person requiring airborne infection isolation is in contact with employees, which may include placing the person in a separate room or area, providing separate ventilation or filtration, and use of respiratory protection by employees entering the room or area if the person is not compliant with source control measures (such as failing to use a provided surgical mask or other means to cover their cough);
- medical surveillance for employees, including surveillance for latent tuberculosis infection (LTBI) for all exposed employees, the provision of vaccines for health care workers as recommended by the California Department of Public Health (CDPH) (these vaccines are listed in Appendix E), and provisions for exposure incidents;

- provision of the seasonal influenza vaccine;
- employee training; and
- recordkeeping.

### **Laboratory Operations**

Laboratory operations which do not involve direct contact with persons who are cases or suspected cases of aerosol transmissible diseases would be required to comply only with subsections (a), (f), (i) and (j) and with specifically referenced portions of other subsections. Laboratories in which employees have direct contact with cases or suspected cases would be required to comply with subsections (d) through (j) including subsection (f).

Subsection (f) is proposed to address research, production, and clinical laboratories. Laboratory operations may aerosolize pathogens that are not normally transmitted between people via aerosols. An example of this type of transmission is laboratory-acquired brucellosis, which is spread via aerosols of laboratory cultures.

Laboratories may also work with cultures or other materials in which infectious agents are concentrated. Therefore, the proposed standard contains a definition of aerosol transmissible pathogens — laboratory (ATP-L), which includes pathogens identified in Appendix D of the proposal, as well as pathogens identified for biosafety level 3 and above controls by the CDC, pathogens identified by the facility biosafety officer, and novel and unknown pathogens. This subsection does not apply to laboratory operations that only work with non-pathogenic organisms.

The effect of proposed subsection (f)(2) would be to require the employer to implement feasible engineering and work practice controls to minimize exposure, and to provide necessary personal protective and respiratory protective equipment. Control measures would be required to be consistent with the recommendations of the CDC, as published in Biosafety in Microbiological and Biomedical Laboratories.

The effect of proposed subsection (f)(3) would be to require the employer to establish, implement and maintain a biosafety plan, which could be incorporated into existing Exposure Control Plans to meet the requirements of subsection (f)(3)(A-N). This subsection lists the required elements of the program. Employers who provide respiratory protection would also be required to comply with subsection (g), Respiratory Protection. Laboratory employers would be required to comply with the medical surveillance requirements in subsection (h), to the extent that they are applicable to laboratory operations. For example, a laboratory that processes tuberculosis samples or cultures would be required to provide surveillance for tuberculosis, whereas a research laboratory working with measles would be

required to provide that vaccination. Laboratory employers would also be required to provide training in accordance with subsection (i), and recordkeeping in accordance with subsection (j).

**Employers Providing Services to AirID Patients or Where Employees Perform Aerosol-Generating Procedures on Cadavers Potentially Infected with ATPs**

Proposed subsections (a), (d), (e), (g), (h), (i) and (j) would establish specific requirements for employers that provide services to persons who are AirID cases or suspected cases. This includes work settings such as hospitals, emergency medical service providers, and tuberculosis clinics, as well as facilities such as jails or long-term care facilities that house and treat, rather than refer, AirID cases or suspected cases. Other employers in this category include pathologists and others performing autopsies and mortuaries to the extent that they perform aerosol-generating procedures on cadavers that may be infected with aerosol transmissible pathogens. Employers with employees who perform laboratory operations that involve contact with AirID cases or suspected cases would also be required to comply with subsection (f), Laboratories. Requirements for laboratory operations are discussed above.

The effect of proposed subsection (d)(1) is to require employers to establish, implement and maintain an effective infectious disease Exposure Control Plan (Plan). Proposed subsection (d)(2) contains the specific requirements of the Plan, which include the designation of person(s) responsible for the Plan implementation, a list of job classifications in which employees have occupational exposure, a list of high hazard procedures, a list of tasks or assignments requiring personal or respiratory protection, the methods of implementation of the control measures required by the standard, surge procedures, source control measures, procedures for temporary isolation and transfer or referral for AirID cases, medical surveillance including the provision of vaccinations, procedures for exposure incidents, procedures for communication with employees and other employers regarding the infectious status of a patient and regarding exposure incidents, procedures to ensure an adequate supply of necessary equipment, procedures for providing employee training, recordkeeping, and procedures for involving employees in the review of the Plan. The effect of proposed subsections (d)(3) and (d)(4) is to provide that the Plan must be reviewed at least annually and made available to employees, their representatives, the Chief and NIOSH.

The effect of proposed subsection (e)(1) is to require employers to use feasible engineering and work practice controls to minimize employee exposures to ATPs and to provide personal protective equipment, which

for airborne infectious pathogens would include respirators, where necessary. This subsection would require employers to implement, as applicable, the specific engineering controls and work practices recommended by the CDC, as described in the Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings, 2007, for diseases requiring droplet precautions. For diseases requiring airborne infection isolation, the measures described in Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005, CDC would be required. Fixed establishments, and field operations to the extent that it is feasible, would be required to implement written source control procedures. Employers would also be required to develop control measures for employees who are exposed to infectious cases while transporting them in vehicles. It would also require employers to implement source control procedures, which in fixed health care facilities and correctional facilities must incorporate the recommendations in Respiratory Hygiene/Cough Etiquette in Health Care Settings, CDC, 2004. In other settings, these requirements must be incorporated to the extent feasible. This section would also require employers to develop and implement engineering and work practice controls to protect employees who operate, use, or maintain vehicles used to transport ATD cases or suspected cases.

The effect of proposed subsection (e)(2) is to require that employers develop and implement written decontamination procedures for work areas, vehicles and equipment. Proposed subsection (e)(3) would require that the employer inform contractors who provide temporary or contract employees about infectious disease hazards. The effect of proposed subsection (e)(4) is to require that engineering controls be used in workplaces that admit or provide medical services to AirID cases or suspected cases, except where home health or home-based hospice services are provided.

Proposed subsection (e)(5)(A) establishes requirements for protection when dealing with AirID cases and suspected cases, including source control measures and measures to minimize contact with employees who are not wearing respirators. The effect of subsection (e)(5)(B) is to establish requirements for transferring AirID cases and suspected cases to AII rooms or areas. Exceptions are provided for situations in which a transfer would be detrimental to the patient's condition, or where these facilities are not feasible for persons infected with novel or unknown pathogens. The effect of subsection (e)(5)(C) is to require that high hazard procedures be conducted in AII rooms or areas, unless no such area is available and it is necessary to perform the procedure.

The effect of subsection (e)(5)(D) is to establish specific requirements for airborne infection isolation rooms (AIIR) or areas. These requirements are consistent with Title 24, Part 4, Chapter 4, Section 417 et seq. which contain the design and construction requirements for AIIR in hospitals. AIIR which are constructed in accordance with those provisions would be considered to be in compliance with this subsection. The section contains specific requirements for AII ventilation systems and for the inspection, testing, maintenance, and verification of control measures in isolation rooms or areas. These controls are referenced to the CDC recommendations in the Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005. This subsection also includes requirements for the ventilation of AII rooms or areas after the case or suspected case has vacated the room. Annual inspection would be required for engineering controls, and the existing requirement contained in Section 5143 that employers must comply with in the construction, installation, inspection, operation, testing and maintenance of AII ventilation systems would remain, by specific reference, in this subsection.

The effect of proposed subsection (g) is to establish requirements for the use of respiratory protection for aerosol transmissible diseases. The effect of proposed subsection (g)(1) is to require that respirators be approved by NIOSH for the purpose for which they are used. This restates the existing requirement in Section 5144 and is equivalent to the federal standard 29 CFR 1910.134(d)(1)(ii). The effect of proposed subsection (g)(2) is to require employers to establish and implement a written respiratory protection program that complies with Section 5144, except as provided in proposed subsections (g)(5) and (g)(6).

The effect of proposed subsection (g)(3) is to establish the selection criteria for respiratory protection for use against infectious aerosols. It would require that those respirators be at least as effective as an N95 filtering facepiece respirator. If the CDC or CDPH recommends a more protective respirator, the employer must provide a respirator with that level of protection. This subsection would also require that the employer provide a Powered Air Purifying Respirator (PAPR) with high efficiency particulate air (HEPA) filter(s) to employees who perform high hazard procedures on AirID cases or suspected cases, unless the use would interfere with the successful performance of the task. The employer would be required to document any determination that a PAPR could not be used for a procedure in the exposure control plan, and this documentation would be required to be reviewed at least annually by the employer and employees. Proposed subsection (g)(3) also would require that respirators used for other hazards, such as chemical hazards or releases of biological

spores, be selected in accordance with Sections 5144 or 5192 as applicable. This is consistent with existing standards, and provides equivalency to federal OSHA standards 29 CFR 1910.134 and 29 CFR 1910.120.

The effect of proposed subsection (g)(4) is to specify the situations in which respirator use would be required to protect employees against airborne infectious pathogens. (Respirators are not required to be used when there is an ATD case that requires droplet precautions.) The circumstances enumerated in subsection (g)(4) requiring respirator use are when an employee:

- enters an AII room or area in use for airborne infection isolation;
- is present during the performance of procedures or services for an AirID case or suspected case;
- transports an AirID case or suspected case either in an enclosed vehicle or within a facility, when that person is not masked;
- repairs, replaces or maintains air systems or equipment that may contain or generate ATPs;
- is working in an area occupied by an AirID case or suspected case and during decontamination procedures after the person has left;
- is working in a residence where an AirID case or suspected case is known to be present;
- is present during the performance of aerosol generating procedures on cadavers that are suspected of, or confirmed as, being infected with airborne infectious diseases; or
- is performing a task for which the biosafety plan or exposure control plan requires the use of respirators.

An exception to this subsection would provide that employees who operate vehicles are not permitted or required to use respirators when the use would interfere in the safe operation of the vehicle. There is also an exception for personnel who transport an AirID case or suspected case where there is a solid partition that has been tested to ensure that there is no detectable airflow from the passenger compartment to the area where the employees are located.

The effect of proposed subsection (g)(5) is to require the medical evaluation of each employee for respirator use prior to the employee being fit-tested for, or required to use, a respirator, in accordance with Section 5144(e). Section 5144(e) requires that respirator medical evaluations include the content of a questionnaire included in Appendix C to Section 5144. This subsection would permit the use of an alternate medical questionnaire (Appendix B to this standard) where respirators are provided solely for the purpose of protection against infectious aerosols, as described in proposed subsections (g)(3)(A) and (g)(3)(B). As stated above, physicians participating in the advisory process have



stated that the alternative questionnaire provides equivalent protection to the questionnaire content currently required by Section 5144 and 29 CFR 1910.134.

The effect of proposed subsection (g)(6) is to establish requirements for initial and annual fit-testing of respirators. This subsection is equivalent to requirements in Section 5144(f), and 29 CFR 1910.134(f).

Employers must provide initial and annual fit-testing, and must provide additional fit-testing when an employee notifies the employer that the fit is unacceptable, or when the employer is notified by the employee, employer, supervisor, physician or other licensed health care professional (PLHCP) or respiratory protection program administrator that a change in the employee's physical condition could effect respirator fit. There is an exception to annual fit-testing for respirator use by employees who do not perform high hazard procedures. This exception, which will expire on January 1, 2014, would permit those employees to be fit-tested every two years. This exception is discussed above under the section "federal equivalence." The effect of subsection (g)(7) is to require that employees who use respirators be trained initially and annually, as required by Section 5144, which is equivalent to 29 CFR 1910.134(h).

The effect of proposed subsection (h) is to require that the employer provide medical surveillance for ATDs and laboratory acquired infections in accordance with recommendations from the CDC or CDPH for the type of work setting. The surveillance includes vaccinations, examinations, evaluations, determinations, and medical management and follow-up. If the medical surveillance is being provided by a health care professional who is also the employer, the employee could refuse to consent to surveillance by their employer, in which case the employer would be required to provide the services of an independent health care professional. Other general requirements pertaining to this surveillance are listed in subsection (h)(2) and include requirements that the surveillance be provided by a licensed physician or other health care professional or under their supervision, that it be provided in accordance with CDC or CDPH recommendations, and that it be provided in a confidential manner.

The effect of proposed subsection (h)(3) is to require that all employees with occupational exposure under this section be provided with surveillance for LTBI. Research and production laboratories where it is not reasonable to suspect that *M. tuberculosis* are present would be exempted from this requirement. Surveillance must be in accordance with CDC and CDPH recommendations. Tests for LTBI would be required to be conducted initially, and thereafter at least annually, or more frequently. The proposal would require that employees who experience a TB conversion be referred to a PLHCP for evaluation and would require that the

PLHCP report suspect or confirmed infectious TB to the local health officer. The PLHCP would also be required to make a recommendation regarding precautionary removal if the person has suspected or diagnosed infectious tuberculosis (see discussion below). Subsection (h)(3) would also require that TB conversions be recorded on the Log 300, which is consistent with Section 14300. It would also require employers to investigate the circumstances of conversions, unless the conversion is determined not to be occupational.

The effect of proposed subsection (h)(4) is to require that laboratory tests be performed by an accredited laboratory.

The effect of proposed subsection (h)(5) is to require that employers provide all vaccine doses recommended by the CDPH, as listed in Appendix E, to all susceptible health care workers and at no cost to the employee. The vaccinations listed in Appendix E are measles, mumps and rubella (often given as a combination vaccine MMR), tetanus, diphtheria and acellular pertussis (Tdap), and varicella zoster. The CDC publishes recommendations regarding the number of doses, method of administration, medical exclusions, and any exceptions for certain vaccines based on demonstrated or presumed immunity. Vaccinations would be required to be provided within 10 working days of initial assignment. Newly recommended vaccinations would be required to be provided within 120 days of the issuance of the new recommendation, unless the vaccine is not available. Employees may decline to receive a vaccination. Appendix C contains mandatory wording for vaccine declination.

Proposed subsections (h)(6) through (h)(9) establish procedures that all employers subject to this standard, including referring and laboratory employers, would be required to follow in the event of an exposure incident. An exposure incident is defined in subsection (a) as an exposure to an individual with a diagnosed or suspected, reportable ATD (RATD) when the exposure occurs without the control measures required by this section and where the circumstances of the exposure makes transmission sufficiently likely that an employee should be evaluated by a PLHCP. A laboratory exposure incident is one in which an employee has been exposed to aerosols containing ATPs or ATPs-L without the protection required by this section.

The effect of proposed subsection (h)(6) is to require that an employer who determines that a person is a case or suspected case of an RATD make a report to the local health officer, as required by Title 17. This subsection would also require the employer to determine which employees may have been exposed to the case and to determine from available records, such as admissions records, which other employers, such as ambulance services or referring employers, may have employees who



were exposed to the case, and to notify those employers of the exposure. Subsection (h)(6)(B) would then require each employer who becomes aware that employees may have been exposed to an RATD case or to a material containing ATPs—L to analyze the exposure scenario to determine which employees had a significant exposure and to make records of this analysis. The employer would further be required to notify employees who had a significant exposure and to provide a post-exposure evaluation by a PLHCP to each notified employee. This evaluation must include a determination by the PLHCP regarding whether employees must be removed from their regular assignment for a period of time as an infection control precaution (see the discussion of subsection (h)(8) below). This subsection also would establish time frames for notification of employees and other employers.

The effect of proposed subsection (h)(7) is to establish the requirements for information to be provided to a PLHCP. Subsection (h)(7)(A) would establish requirements for information to be provided to PLHCPs who provide medical evaluations for respirator use. These requirements are consistent with existing requirements in Section 5144 and to the federal OSHA requirements in Section 29 CFR 1910.134. In addition to those requirements, the employer would be required to provide the PLHCP with a copy of this section and applicable CDC and CDPH guidelines. Subsection (h)(7)(B) would establish requirements for provision of information to PLHCPs who provide medical evaluation following an exposure incident. The information to be provided includes a description of the employee's duties as they relate to the exposure incident, the circumstances of the incident, any available diagnostic test results including drug susceptibility of the source, and medical records of the employee that are relevant to the management of the employee, including, as applicable, TB test results or vaccination records for vaccine-preventable illnesses.

The effect of proposed subsection (h)(8) is to establish procedures for precautionary removal recommendations from the PLHCP for RATDs. This subsection refers to infection control recommendations to prevent further transmission during an incubation period, during which the disease may not produce signs or symptoms of infection, but during which the person may be infectious. The period of precautionary removal depends upon the disease and other factors. The proposal establishes that this requirement only applies to a period during which the employee is not ill, but is excluded from the workplace to prevent infection of others, including other employees and patients. This subsection would require that the employer maintain the employee's earnings, seniority and other rights and benefits during this period. Because time is essential for in-

fection control purposes, a removal recommendation from the PLHCP would be required to be provided immediately by phone or fax, and that recommendation is also to be included in the written report described in proposed subsection (h)(9).

The effect of proposed subsection (h)(9) is to require the employer to obtain a written opinion from a PLHCP who performs any medical evaluations required by this section within 15 days of completion of the evaluation. For respirator medical evaluations, the PLHCP would be required to provide the written report required by Section 5144(e)(6), which is equivalent to federal OSHA 29 CFR 1910.134(e)(5). For evaluations of TB conversions and RATD and ATP—L exposure incidents, the opinion would be required to include the applicable test status for the employee, the infectivity status of the employee, a statement that the employee had been informed of the results of the medical evaluation and was offered any applicable vaccinations or prophylaxis, a statement that the employee had been told about any medical conditions resulting from the exposure that require further evaluation or treatment and has been informed of treatment options, and any recommendations for precautionary removal. This subsection would further require that all other findings and diagnoses remain confidential and not be included in the report.

The effect of proposed subsection (h)(10) is to require the provision of the seasonal influenza vaccine at no cost to the employee and would require that the employer ensure that employees who decline the vaccine sign the declination statement included in Appendix C. A note explains that seasonal influenza vaccine need only be provided during the period designated by the CDC for administration of this vaccine.

The effect of proposed subsection (i) is to establish requirements for training. Training would be required at the time of initial assignment and at least annually. Additional training would be required when the exposure circumstances or controls change. Proposed subsection (i)(3) lists the required training elements.

The effect of proposed subsection (j) is to establish recordkeeping requirements, which pertain as applicable to all employers covered by this section. Recordkeeping regarding respirator use would be referred to Section 5144, which contains the same requirements as federal OSHA, 29 CFR 1910.134.

Appendix A (mandatory) is the list of aerosol transmissible pathogens, derived from the CDC guidelines and the input of the advisory committee. The list is divided into those diseases for which droplet precautions are recommended and those for which airborne infection isolation is recommended.

Appendix B is the alternate medical questionnaire. This questionnaire is mandatory if the employer

chooses not to use the medical questionnaire included in Section 5144, Appendix C.

Appendix C is the mandatory vaccine declination wording.

Appendix D (mandatory) is the list of aerosol transmissible pathogens, (ATP-L), derived from the BMBL and from the input of the advisory committee.

Appendix E (mandatory) is the list of recommended vaccinations for health care workers, which was provided by the CDPH and is consistent with CDC recommendations.

Appendix F (non-mandatory) contains sample criteria for the identification of persons in non-medical settings who require referral to a health care provider for evaluation of whether the person has an aerosol transmissible disease.

#### DOCUMENTS INCORPORATED BY REFERENCE

- Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, December 2005, CDC.
- Biosafety in Microbiological and Biomedical Laboratories, 5<sup>th</sup> Edition, CDC and National Institutes for Health, 2007.
- Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings, June 2007, CDC.
- Respiratory Hygiene/Cough Etiquette in Health Care Settings, CDC, November 4, 2004.

These documents are too cumbersome or impractical to publish in Title 8. Therefore, it is proposed to incorporate the documents by reference. Copies of these documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

#### COST ESTIMATES OF PROPOSED ACTION

##### Costs or Savings to State Agencies

The Division has determined that the proposal as a whole will not result in significant costs or savings to state agencies. The Division anticipates that any potential costs would in part be balanced by avoiding the costs inherent in workers' compensation claims, lost work time, and productivity losses that would have been caused by infection of employees with aerosol transmissible diseases. The standard would apply to hospitals and other health care institutions operated by the State of California or the University of California.

Infection control requirements, including requirements pertaining to airborne infection isolation, are currently incorporated into Title 22, and the proposed standard is not projected to create significant new costs. Any costs are anticipated to be offset by savings incorporated into the proposal, particularly in regards to biannual fit-testing for non-high hazard respirator use, and a more streamlined respirator evaluation. Prisons and detention facilities operated by the Department of Corrections and Rehabilitation should not incur significant additional costs because provisions relating to tuberculosis surveillance and infection control are consistent with current requirements of Title 15 and Title 22. Prisons, detention facilities, and emergency response organizations may incur some one-time costs in assessing whether their current infection control and communicable disease control programs address all of the elements required in this section. Hospitals, prisons and detention facilities, and emergency response organizations may incur costs of \$5 to \$20 per employee per year in providing the annual seasonal influenza vaccine; however all hospitals are now required by state law to provide these vaccinations, including a declination statement if an employee elects not to take the vaccine. The Joint Committee on the Accreditation of Healthcare Organization (JCAHO) requires flu vaccine for hospitals and skilled nursing facilities under their jurisdiction. These costs should be offset by certain exceptions provided in this section to respiratory protection program requirements, resulting in no significant net costs or savings to any state agency. A detailed discussion of these provisions is included in the section on cost impact on private persons or businesses.

##### Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

##### Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. See discussion below.

##### Cost Impact on Private Persons or Businesses

The Board has identified the following components of the proposed standard that may result in additional costs or savings to some employers.

##### Implementation of subsection c: Referring Employers

The following requirements apply to "referring employers," as described by subsection (c).

- (c)(1) Designation of responsible person.

(c)(2), (c)(3), and (c)(5) Requirement to develop and implement written procedures for identifying infectious disease hazards and controlling those hazards through “source control” methods, patient referral or transfer, and risk reduction methods where infectious persons are in the facility or work operations.

(c)(4) Requirement to develop and implement written procedures for communication with employees regarding infectious disease hazards.

(c)(7) Requirements to train employees in regards to these hazards and the employer’s control measures.

(c)(8) Requirements for annual review of procedures.

The actions required by these subsections are already required by existing Sections 3203, 3204, 5143, and for respirator users, Section 5144. Therefore no additional costs are associated with these provisions.

The following requirements may require additional actions for some employers, as described below:

Subsection (c)(6) requires medical surveillance for employees with occupational exposure. For health care workers only, this includes provision of four recommended vaccines for employees who are not immune and have not been previously vaccinated. The costs associated with those vaccines are as follows<sup>1,2</sup>:

Vaccination	Cost per treatment	Diseases prevented	Ave. Lost workdays caused by disease
MMR	\$43 (may require 2 doses)	Measles, mumps, rubella	20–30 days for the 3 diseases
Varicella zoster	\$142 (total for 2 doses for adults)	Varicella	5–10 days
DTaP	\$22 (+booster every 10 years)	Diphtheria, tetanus, pertussis.	15–43 days
Seasonal Flu (see discussion above)	\$5–20	Influenza unspecified	3 days

These vaccinations have been recommended by the CDC and many employers with facilities licensed under Title 22 have implemented vaccination policies. Most employees in the United States are either considered immune to MMR, or have already been vaccinated. Some employees have already been vaccinated for varicella. Therefore the vaccination provisions of this section, other than the seasonal influenza vaccine, would impose one–time costs ranging from \$0 to \$225 per previously unvaccinated employee, and an additional cost of \$22 per employee per 10 years (or \$2.2 per year). The cost of the seasonal influenza vaccine ranges from \$5 to \$20 per year per exposed employee. These costs will be offset by savings in employee absenteeism and productivity. (See discussion below regarding subsection (h)).

TB surveillance is currently required by Titles 9, 15, and 22 for many of the settings that are included in this subsection, and for those facilities would not impose any new costs. In other settings, as cited above, TB surveillance is recommended by the CDC, CDPH, or other public health authority, and/or is a requirement of block grants or other government funding sources. TB surveillance is currently recommended for workers in these high–risk settings, and employers should be im-

plementing TB surveillance as part of their Injury and Illness Prevention Program. Therefore this subsection should not impose additional costs.

This subsection also requires employers to establish procedures for exposure incidents. The requirement to investigate and record harmful exposures is already required under Section 3203 and Title 8, Chapter 7, Section 14300 et. seq., so this requirement would create no additional costs. Employers may incur some additional administrative costs in communication with other employers regarding potential infections, although for the most part the effect of this section is to improve the quality and timeliness of these communications. The required communications are expected to involve less than one additional hour per exposure incident for the administrator, and therefore would be a minor cost.

<sup>1</sup> National Immunization Program, Vaccines for Children Program (VFC) CDC Vaccine Price List Prices last reviewed/updated: August 3, 2006.

<sup>2</sup> Advisory Committee on Immunization Practices, Recommended Adult Immunization Schedule — United States, October 2005—September 2006 Quick Guide MMWR Weekly, October 14, 2005/54(40); Q1–Q4.



Referring employers who implement respiratory protection for employees are already required to meet all requirements in this subsection for respirator use. These employers will experience some savings due to 1. fewer follow-up referrals for medical evaluations due to a more specific screening questionnaire, and 2. a reduced cost for fit-testing until 2013, because the required repeat fit-test interval for non high-hazard procedures would be lengthened to two years. (See discussion below regarding subsection (g)).

(c)(9) Recordkeeping. This subsection restates and clarifies existing provisions from Sections 3203, 3204, and Sections 5143 and 5144 where applicable. This subsection requires the establishment of a medical record for each employee with occupational exposure. In virtually all cases, this record has already been required to be established to comply with Section 5193. Additional items required to be included in this record would include vaccination records for health care workers, and records of seasonal influenza vaccine. Records of exposure incidents would be required to be included. Records of this type must be created to comply with requirements of Section 3203 regarding investigation of occupational illnesses, and Section 14300 et. seq., in regards to recording occupational illnesses. Therefore no significant new costs are associated with this provision. Some savings may be achieved in the event of an exposure incident as the immunization status of an employee may be immediately determined, thus avoiding unnecessary medical treatment.

In addition to the specific analysis above, the Board notes that many of the proposed requirements for jails and other correctional facilities are currently required to establish a communicable disease control plan, which includes providing transport of a suspect TB case to an appropriate facility, and to establish by Title 15 Crime Prevention and Corrections standards for the control of TB, and Title 17 of the California Code of Regulations, Chapter 4 Preventive Medical Service, also relating to the control of TB. Other existing standards for the control of TB are discussed below.

#### **Implementation of subsection (d): Exposure Control Plans**

Subsection (d) applies to establishments that furnish care or other services to individuals requiring airborne infection isolation, and to establishments that perform aerosol-generating procedures on cadavers that are suspect or confirmed cases of ATDs. These are primarily health care facilities that are regulated under current licensing requirements, or correctional health care facilities. Acute care hospitals and skilled nursing facilities, including correctional medical facilities are required by Title 22 Division 5 Licensing and Certification of Health Facilities, Home Health Agencies, Clinics and

Referral Agencies to have infection control programs (Title 22 Section 70739). Title 15 additionally requires local correctional and detention facilities to have a communicable disease control plan. Another group of employers offering these services may include home health agencies and hospices, which are also required to establish these procedures under Title 22. Pathologists and other operations in which aerosol generating procedures may be performed on cadavers that are located in health care facilities are also regulated by Title 22. This subsection is not expected to impose any significant additional costs because these programs should already be in place, however, there may be some minor costs involved in ensuring that the existing facility program meets the specific requirements in this section. These costs are not expected to exceed a one-time cost of four hours of administrative time per facility, estimated at approximately \$200 or less. Mortuaries that perform embalming procedures on infectious cadavers should have established exposure control plans under Section 5193, and should further have developed infection control procedures under Section 3203, as recommended by the CDC for TB control. Therefore mortuaries are not expected to incur significant new costs.

#### **Implementation of subsection (e): Engineering Controls and personal protective equipment**

Source control measures and referral and transfer procedures are already recommended by CDC guidelines, and should have been implemented in accordance with Section 3203. State law now requires the implementation of source control measures in general acute care hospitals. Engineering controls such as airborne infection isolation rooms and areas are required by existing requirements based on the CDC guidelines, cited in this rulemaking, for the control of tuberculosis. The proposed standard does not require the installation of new control systems. The construction of new health care facilities and control systems must comply with the California Office of Statewide Health Planning and Development which specifies airborne infection isolation ventilation performance requirements. Personal protective equipment is already required by sections 3380-84 and Section 5193. Therefore no additional costs are anticipated in complying with this subsection.

#### **Implementation of subsection (f): Laboratories**

Subsection (f) is applicable to clinical laboratories and to research laboratories. Clinical laboratories are required to establish biosafety, infection control and quality control procedures under the Clinical Laboratory Improvement Amendments. Research laboratories that receive funding from the CDC are required to comply with the BMBL. Additionally, laboratories in California are required to be licensed by the Department of Health Services, under Title 17. The proposal



includes standard laboratory practices that are referenced by all of these authorities, and therefore should not result in any substantial costs to laboratories. One-time costs relating to review and updating of existing biosafety plans to ensure compliance with the specific requirements of this subsection are not anticipated to exceed four hours of administrative time, estimated at approximately \$200 per facility. To the extent that laboratories utilize respiratory protection as a control measure, the requirements of subsection (g) impose no additional costs to the costs of current compliance with Section 5144. The exceptions in subsection (g) will result in savings to laboratories due to 1. fewer follow-up referrals for medical evaluations due to a more specific screening questionnaire, and 2. a reduced cost for fit-testing until 2013, because the required repeat fit-test interval for non high-hazard procedures would be lengthened to two years. (See discussion below regarding subsection (g)).

**Implementation of subsection (g): Respiratory Protection**

Employers within the scope of Section 5199, who provide care or services to persons requiring airborne infection isolation, or are exposed to laboratory aerosols etc., are already required to provide respirators in accordance with Section 5144. The proposal would affect respirator use as follows:

1. Respirator selection. The proposal would require at a minimum, the least expensive type of respiratory protection, the N95 filtering facepiece respirator for most exposures. This is consistent with current practice, and involves no additional costs. It is currently recommended that employees who perform high hazard procedures on suspected or confirmed AirID cases, be provided with a higher level of protection, typically a PAPR.<sup>3</sup> Some employers currently provide this type of respirator and will experience no additional costs due to this provision. For employers who must implement PAPRs to comply with the requirements in the proposal, the costs are as follows: PAPRs cost approximately \$500 each, which includes a replaceable hood as well as a motor and blower unit, battery and related tubing. The PAPR motor and blower unit can be re-used, and the hoods can be decontaminated. Additionally, the PAPRs used in health care settings do not require a fit-test, which reduces the

cost of program administration. Johns Hopkins implemented PAPRs for all respirator use against TB, and according to John Schaefer<sup>4</sup> experienced cost savings over a one to two year period compared to the use of filtering facepiece respirators. (The cost comparison included staff time spent disinfecting respirators and maintaining the PAPR).

2. Subsection (g)(6) contains a provision which would, for non-high hazard procedures, permit a re-fit-test interval of up to 24 months, as compared to the 12 month fit-test interval currently required in Section 5144(f)(2). The effect will be to reduce the cost to employers for conducting fit testing by fifty percent. Information provided to the Standards Board on May 27, 2004, by the California Association for Professionals in Infection Control and Epidemiology Coordinating Council showed that the total number of health care workers fit tested in California was approximately 272,000 and the cost to fit test them was 5.1 million dollars. There would thus be an annual savings of about 2.55 million dollars for this industry segment alone.<sup>5</sup> At an institution with 500 respirator users, this savings would be \$5000 per year, for the six-year period prior to this provision expiring. These savings would more than off-set any costs sustained by the institution in implementing other portions of this standard.
3. Subsection (g)(5) permits employers to utilize a more specific questionnaire for respirator medical evaluations. This questionnaire is expected to reduce the number of unnecessary referrals to a PLHCP for further medical evaluation for respirator use. This is expected to save employers the cost of the medical visit, estimated at approximately \$100, and the cost of the employee's time, approximately \$50 on average.

**Implementation of subsection (h): Medical Surveillance**

As described below, all employers included within the scope of this section must comply with some or all of the subsections regarding medical surveillance. All employers included within the scope of this standard have been identified by the CDC as being at increased risk for tuberculosis, and therefore requiring medical surveillance. In addition, licensed health care facilities and correctional facilities and other detention facilities are required to have infection control and/or communicable disease control programs that include medical surveillance provisions. Drug treatment programs require

<sup>3</sup> American College of Chest Physicians and American Association for Bronchology Consensus Statement: Prevention of Flexible Bronchoscopy-Associated Infection Atul C. Mehta, Udaya B.S. Prakash, Robert Garland, Edward Haponik, Leonard Moses, William Schaffner and Gerard Silvestri Chest 2005;128;1742-1755 DOI: 10.1378/chest.128.3.1742

<sup>4</sup> Private conversation, John Shaefer reported in minutes 9-28-05 meeting

<sup>5</sup> APIC, letter dated May 27, 2004

tuberculosis surveillance as part of the block grant provisions. For many employers, the medical surveillance provisions should not result in any increased costs. To the extent that employers are not providing the recommended or required medical surveillance, the Division has identified the following potential costs, and savings.

### **Vaccinations and prophylaxis**

The actual cost of providing vaccinations recommended by the California Department of Health Services is summarized in the table below. The ACIP of the CDC recommends that all health care workers be immune to mumps, measles and rubella, tetanus, diphtheria and pertussis and varicella zoster. MMR is recommended for non-vaccinated health care workers born after 1957. Most persons born after 1957 have already been vaccinated for MMR, but for those who have not

been vaccinated, the one-time cost for two doses is \$86. Tdap requires a booster every 10 years, and costs approximately \$22. That is an annual cost of \$2.20 per employee. Varicella zoster vaccine is recommended for non-vaccinated health care workers born after 1980. Most persons born after 1980 have been vaccinated, but for those who have not, there would be a one-time cost of \$142 for two doses. However, the cost of each dose would be offset by the prevention or mitigation of the specific disease, and the reduction of lost work time and workers' compensation benefits that would otherwise be incurred by the employer. The vaccine, cost per treatment and average lost workdays are listed in the table below. The table does not include the additional significant costs that would be incurred if the disease is transmitted from an infected employee to other employees, or from employees to patients or residents, clients or inmates.

Vaccination	Cost per treatment	Diseases prevented	Ave. Lost workdays due to disease
MMR	\$43 (may require 2 doses)	Measles, mumps, rubella	20–30 days for the 3 diseases
Varicella zoster	\$142 (total, private, for 2 doses for adults)	Varicella	5–10 days
Tdap DTaP? (See box on page 47)	\$22 (+booster every 10 years)	Diphtheria, tetanus, pertussis.	15–43 days
Seasonal Flu (see discussion above)	\$5–20	Influenza unspecified	3 days

### **Seasonal influenza vaccine**

It was reported to the Division during the advisory process that many health care institutions in California already offer free seasonal flu vaccinations to health care workers. California law now requires that acute care hospitals provide seasonal influenza vaccine to employees, and require a written declination by employees who do not accept the vaccine. JCAHO has also made this a requirement for accreditation, which applies to critical access hospitals, hospitals, and long-term care facilities. For other employers who do not already offer the vaccinations, an independent analysis by the Stanford Medical Center in 2004 concluded that the cost of the vaccine, ranging from 5–20 dollars per vaccination, for employees in general would be offset by savings due to preventing a productivity loss of almost 3 sick days per individual.

### **Implementation of subsection (i): Training**

The Division has determined that the training requirements do not impose significant additional costs

because most of the required training elements are currently required as part of the Injury and Illness Prevention Plan, and may also be required under California Code of Regulations, Titles 15, 17, or 22 for the specific type of employer.

### **Implementation of subsection (j): Recordkeeping**

The Division has determined that the recordkeeping requirements of this section do not impose significant costs to employers because the records that would be required are for the most part required under current standards.

Subsection (j)(1) would require the employer to establish and maintain a medical record for each employee with occupational exposure. For most employees covered under this standard, a medical record is already required to be established under Section 5193. Section 3204 also establishes requirements for medical records. The proposed standard would require the placement of additional vaccination records and re-

cords of exposure incidents in this file. There are minimal costs associated with these filings.

Subsection (j)(2) would require the maintenance of training records. The maintenance of training records is currently required under Section 3203.

Subsection (j)(3) would require records of Plan implementation. These records are currently required under Section 3203. Records of inspection of ventilation systems are also required to be kept under Sections 5142 and 5143. New records would be required to be created regarding the unavailability of vaccine, which would be a single record for an institution, and for the unavailability of isolation facilities. These records are required to be created only in the unusual circumstance of the unavailability of a required control measure, and are expected to create minimal costs. Recordkeeping requirements of the respiratory protection program are referenced to the current requirements of Section 5144.

The availability of records is consistent with other sections, including Sections 3204 and 3203, and does not impose any additional costs.

#### **Costs or Savings in Federal Funding to the State**

The proposal will not result in costs or savings in federal funding to the state.

#### **Costs or Savings to Local Agencies or School Districts Required to be Reimbursed**

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

#### **Other Nondiscretionary Costs or Savings Imposed on Local Agencies**

This proposal does impose nondiscretionary costs or savings on local agencies.

The costs and savings expected to be incurred by local agencies are those of a typical business, as described above. Overall, this proposal is expected to result in savings in regards to respirator use that will offset any additional costs incurred in the implementation of other provisions of the standard.

### **DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because this standard does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which car-

ries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed standard does not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standard.

The proposal does require employers to provide information to the local health officer, and requires the employer to take certain actions when recommended by the local health officer. The role of the local health officer under this standard is to fulfill the mandatory functions under Title 17, and Title 15 of the California Code of Regulations, and under the Health and Safety Code.

### **EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendments may affect small businesses.

### **ASSESSMENT**

The adoption of the proposed standard will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

### **REASONABLE ALTERNATIVES CONSIDERED**

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

2. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7,  
Article 109  
New Section 5199.1  
**Aerosol Transmissible Diseases—  
Zoonotics**

## INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Pursuant to California Labor Code Section 142.3, the Occupational Safety and Health Standards Board (Standards Board) may adopt, amend, or repeal occupational safety and health standards or orders. Section 142.3 permits the Standards Board to prescribe, where appropriate, suitable protective equipment and control or technological procedures to be used in connection with occupational hazards and provide for monitoring or measuring employee exposure for their protection.

The Division of Occupational Safety and Health (Division) is proposing that the Standards Board add new Section 5199.1 to control aerosol transmissible disease hazards resulting from exposures to infected animals or animal products. Employees in a variety of settings may be exposed to existing zoonotic infection risks, such as hantavirus pulmonary syndrome, monkeypox, anthrax (from untreated animal hides), bovine tuberculosis, and Q fever, and emerging zoonotic threats including some strains of avian influenza.

This proposed section incorporates a graduated system of controls based on the level of disease hazard and type of operation. For normal operations, where there is no alert or warning from the applicable government agency regarding an aerosol transmissible zoonotic disease, the standard refers to existing requirements under Section 3203, Injury and Illness Prevention Program, for hazard identification and control, investigation of injury and illness, and training. It also refers to other protective measures such as sanitation and personal protective equipment, which are covered by Sections 3360 through 3368 and 3380 through 3387.

The proposed section includes additional requirements for operations in which employees are exposed to an aerosol transmissible zoonotic disease hazard in wildlife. These requirements are triggered by the issuance of an alert or other notification by agencies of the United States Department of the Interior (USDOI), the United States Department of Agriculture (USDA), or by the United States Centers for Disease Control and Prevention (CDC), the California Department of Food and Agriculture (CDFA), California Department of Fish and Game (CDFG), or the California Department of Public Health (CDPH). These measures would include training, use of work methods that minimize the production of aerosols, the use of personal protective equipment, sanitation and decontamination practices, and medical surveillance measures. Respiratory protection would be required where there is an increased concentration of potentially infectious aerosols.

Similarly, farms and associated operations identified by the USDA or the CDFA as being at increased risk of

infection would be required to implement sanitation and other protective measures for employees who are in contact with potentially infected animals or their products, byproducts or wastes. These measures would include the identification of areas in which exposure is likely to occur, and the restriction of entry into those areas, which would be under the supervision of a trained person. For employees who enter these areas, the proposal includes requirements for training, protective clothing and personal protective equipment, sanitation facilities, medical surveillance, and respiratory protection.

The highest level of protection would be required for operations involving the handling, culling, transport, killing, eradication, or disposal of animals infected with zoonotic aerosol transmissible pathogens, or the cleaning and disinfection of areas that contain or contained those animals. Because of the increased risk of infection, these operations would require a detailed work plan, including a supervised restricted area and contaminant reduction (decontamination) zone; employee training; personal protective equipment and clothing; respiratory protection; and medical surveillance.

The specific effects of the proposed standard and related federal equivalency of specific sections are discussed below.

This proposal arises in the context of increased awareness of the importance of zoonotic diseases as a threat to human health. Avian influenza epidemics among poultry in Canada and in the Netherlands resulted in significant infections in farm workers and in veterinarians and workers engaged in animal eradication and related tasks. One veterinarian died as a result of disease contracted while performing surveillance activities. Persons exposed to birds infected with the current Asian origin strains of H5N1 avian influenza have experienced significant morbidity and mortality. Some California employees who engaged in eradication efforts related to Exotic Newcastle Disease (END) developed eye infection related to that exposure. In the past, the Division has investigated zoonotic disease hazards in the context of Q fever in an animal research facility which resulted in a special order (Special Order [Cal/OSHA Form 3] is an Order written by the Chief of the Division of Occupational Safety and Health, or his or her authorized representative, to remedy an unsafe condition, device, or place of employment which poses a threat to the health or safety of an employee, and which cannot be made safe under an existing Title 8 Safety Order [P&P C-3, ref Labor Code 6305(b), 6308(c), and 6600.5]).

The Division has also investigated zoonotic disease hazards in farms, veterinary practices, research facilities and pet stores.



**Federal Equivalence**

There is no federal standard that is equivalent to the proposed standard or to Section 3203. The proposed standard refers the use of respiratory protection to existing Section 5144 which is equivalent to the federal OSHA Respiratory Protection standard, 29 CFR 1910.134. It refers access to employee exposure and medical records to Section 3204, which is equivalent to the federal OSHA standard, 29 CFR 1910.1020. It refers certain requirements for the use of personal protective equipment to Sections 3380–87, which has been previously determined to be equivalent to 29 CFR 1910 Subpart I. It refers certain requirements for hygiene facilities to Sections 3360–68 which is equivalent to 29 CFR 1910.141. The proposed standard is at least as effective as existing federal standards.

**Specific Effects of the Proposed Standard**

Subsection (a) includes the scope, application and definitions applicable to this section. The effect of subsection (a)(1) is to apply the standard to occupational exposure to animals and to animal products, byproducts or wastes, unless they have been processed to effectively reduce zoonotic disease hazards. The work operations specifically included in the standard are those involving occupational exposure to wildlife; farms which produce animals or animal products; animal transport operations; slaughterhouses and initial processing facilities for untreated animal products, byproducts or wastes; animal health and surveillance operations, such as veterinary services and animal inspection; importers of live animals or untreated animal products; places which house animals, such as zoos, pet stores, and animal research facilities; operations that clean, disinfect, or decontaminate areas in which animals have been housed; and laboratories in which exposure occurs. The standard would not apply to meat or animal products which have been inspected in accordance with the standards of the USDA or CDFA, and it does not apply in restaurants.

The effect of subsection (a)(2) is to specify which portions of the standard apply to certain types of zoonotic disease hazards. Subsection (a)(2)(A) would clarify the existing responsibility of employers to address zoonotic aerosol transmissible disease hazards in their Injury and Illness Prevention Program under Section 3203. The effect of this subsection is to relieve employers from further compliance with this section so long as they do not meet any of the criteria in subsections (a)(2)(B) through (a)(2)(F), and to direct them to address zoonotic ATP hazards through their Injury and Illness Prevention Program.

Subsection (a)(2)(B) would require additional protections as outlined in subsection (b) for employees who are exposed to wildlife for which there is an alert in

effect regarding a zoonotic disease hazard and for employees who conduct capturing and sampling activities of animals to detect the presence of zoonotic infections. Employers affected by this subsection would also be required to comply with the recordkeeping requirements in subsection (e).

Subsection (a)(2)(C) would require additional protections as outlined in subsection (c) for employees in establishments or operations for which the USDA or CDFA requires additional infection control measures due to an increased risk of infection with zoonotic aerosol transmissible pathogens (ATPs). Employers affected by this subsection would also be required to comply with the recordkeeping requirements in subsection (e).

Subsection (a)(2)(D) would require additional protections, as enumerated in subsection (d), for employees who are involved in the handling, culling, transport, killing, eradication or disposal of animals infected with zoonotic ATPs or the cleaning and disinfection of areas that contain or contained those animals. Affected employers would also be required to comply with recordkeeping requirements in subsection (e).

Subsection (a)(2)(E) would require that laboratories comply with Section 5199(f). Subsection 5199(f) would require the establishment of a biosafety plan, which includes hazard identification, administrative and work practice controls, personal protective equipment, medical surveillance and recordkeeping. The effect of this subsection is to relieve laboratories from further compliance with this section, and to address hazards relating to zoonotic ATPs through compliance with Section 5199(f).

Subsection (a)(2)(F) requires that operations within the scope of Section 5192, Hazardous Waste and Emergency Response Operations, must also comply with that section.

The effect of subsection (a)(3) is to inform employers and employees of the existing employer obligation under the Labor Code to provide all safeguards, including training, personal protective equipment, respirators and medical surveillance and management, at no cost to the employee and during the employee's working hours.

The effect of subsection (a)(4) is to establish definitions for terms used in the proposed standard.

The effect of subsection (b) is to require protective measures for employees who are exposed to wildlife for which an alert regarding the potential of zoonotic infection has been issued by the USDOH, USDA, CDC, CDFA, CDFG or CDPH. Subsection (b)(1) would require the employer to establish, implement and maintain effective written procedures for the capture or sampling of animals to detect the presence of zoonotic ATPs and for the collection and disposal of animals for which

an alert has been issued. Subsection (b)(2) would require that the procedures include work practices that minimize the production of aerosols, the use of personal protective equipment, cleaning and decontamination procedures, medical surveillance and training. Subsection (b)(3) would require the use of respiratory protection in accordance with Section 5144 when there is an increased potential of exposure to infectious aerosols.

The effect of subsection (c) is to require written effective disease control measures for employees during a period when the USDA or CDFA has issued an infection control order applicable to an establishment due to an increased risk of a zoonotic ATP infection. Subsection (c)(1) would require the identification and posting of restricted areas in which these additional control measures are required due to the potential exposure of employees to sources of infection. Subsection (c)(2)(A) would require that employees who enter restricted areas be supervised by a person who is knowledgeable about the employer's control procedures. Subsection (c)(2)(B) would require that employees be provided with and use appropriate protective clothing and equipment and that the clothing and equipment be laundered or disposed of in a manner that would not further expose employees to potentially infectious materials. This subsection would also require the use of eye, mouth and nose protection in accordance with Sections 3380–87 when it is necessary to prevent disease transmission by contact with mucous membranes.

Subsection (c)(2)(C) would require that the employer provide, and ensure that employees use, approved respiratory protection in accordance with Section 5144 when entering into enclosed areas where aerosols from potentially infectious animals or animal wastes are present. Subsection (c)(2)(D) would require that the employer provide sanitary facilities and a method to access them, including change and shower rooms in compliance with Sections 3360–3368. An exception allows alternate sanitation measures when change and shower rooms are not feasible. Subsection (c)(2)(E) would require the employer to provide any medical surveillance, vaccinations or prophylaxis that is recommended by the appropriate public health authority (CDC, CDPH, or Local Health Officer) for employees exposed to these hazards.

Subsection (c)(2)(F) would require that the employer provide training that is appropriate in content and vocabulary to the educational level, literacy and language of employees. Subsection (c)(2)(G) would require the employer to establish procedures to record the entry of persons into restricted areas and to maintain those records in accordance with Section 3204. The effect of subsection (c)(3) would be to permit employers to return to routine infection control measures (as adopted in accordance with subsection (a)(2)(A)) when testing ac-

ceptable to the agency placing the infection control order demonstrates that the premises are not at increased risk of infection, although the movement restriction may still be in force.

The effect of subsection (d) is to establish requirements for animal disease control procedures when work operations involve exposure to animals that are either diagnosed with or assumed to be infected with zoonotic ATPs. These operations include the handling, culling, transport, killing, eradication or disposal of infected animals, as well as the cleaning and disinfection of areas containing the animals or their wastes. It would require that the employer establish written procedures to control the zoonotic disease hazard.

Subsection (d)(1) would require that the written procedures include a detailed work plan that includes a hazard assessment and a description of site control measures and zones; a list of all jobs, tasks and procedures in which employees have occupational exposure; procedures for the safe handling of hazardous substances; a description of exposure control measures; procedures for the application of toxic or asphyxiant gases; procedures to provide access to drinking water and sanitation facilities; and procedures to protect employees against the risk of heat illness.

Subsection (d)(2) would require that operations in the restricted area be supervised by a person knowledgeable about, and authorized to enforce, the employer's zoonotic disease control procedures. This person is required to ensure that all persons who enter the restricted area are trained in those procedures and use appropriate protective measures. Subsection (d)(3) would require that the employer provide, and ensure that employees use, personal protective equipment and clothing meeting the requirements of Sections 3380 through 3387 and capable of being decontaminated or disposed of.

Subsection (d)(4) would require that the employer provide respiratory protection during operations in the restricted area in accordance with Section 5144, unless the employer demonstrates that other control measures have eliminated the risk to employees. This section would specify that employees working in an enclosed area use at a minimum elastomeric facepiece respirators or powered air-purifying respirators with appropriate cartridges unless the employer can demonstrate that this level of respiratory protection is not necessary to protect employees. This subsection would also require that employees in the restricted area use appropriate eye protection, unless eye protection is provided by the respirator.

Subsection (d)(5) would establish requirements for the use of toxic or asphyxiant gases. These procedures would include the posting of signs outside of the area of application, the prohibition of entry while signs are posted unless entry is made in accordance with proce-

dures for atmospheres immediately dangerous to life or health (IDLH) in Section 5144; procedures for ventilation and testing prior to removal of signs and re-entry; and requirements to protect workers in areas adjacent to the application area. This subsection additionally refers confined space operations to Section 5157, and fumigation operations to Sections 5221 through 5223.

Subsection (d)(6) would require that the procedures for treatment and disposal of animal waste and contaminated personal protective equipment and clothing minimize employee exposures to zoonotic disease hazards and be in accordance with the standards of the California Environmental Protection Agency and the United States Environmental Protection Agency. Subsection (d)(7) would require the employer to ensure that employees leaving the restricted area are appropriately decontaminated and that contaminated clothing and equipment be decontaminated or disposed of. Change rooms and showers would be required unless these facilities are not feasible, in which case the employer would be required to implement alternative measures for decontamination and changing clothes.

Subsection (d)(8) would establish requirements for a medical surveillance program. This subsection would require the employer to consult a physician or other licensed health care provider (PLHCP) who is knowledgeable about the zoonotic disease hazards and chemical hazards in the operation in developing the program. It would also require that the program maintain the employee's rights to medical confidentiality. It would require the employer to provide all medical surveillance, vaccination and prophylaxis recommended by the PLHCP or public health agencies. The minimum requirements for the medical surveillance program are enumerated in subsections (A) through (F).

Subsection (d)(8)(A) would require that employees be provided with an initial medical evaluation prior to initial entrance into a restricted area, including an evaluation in accordance with Section 5144(e) for the use of respirators. Subsection (d)(8)(B) would require that the employer refer employees who are exhibiting signs or symptoms of zoonotic diseases, or who request a referral, to a PLHCP.

Subsection (d)(8)(C) would require appropriate medical surveillance for the signs and symptoms of overexposure to hazardous substances. It would require the referral of an employee exhibiting those signs or symptoms, or who requests a referral, to a PLHCP. The employer would also be required to investigate the exposure and correct any hazards found.

Subsection (d)(8)(D) would require the provision of vaccinations or prophylaxis as recommended by the Local Health Officer, the CDC, the CDPH, or the PLHCP. Subsection (d)(8)(E) would require follow-up

medical evaluations as recommended by the CDC, the CDPH, the Local Health Officer or the PLHCP.

Subsection (d)(8)(F) would limit information the PLHCP provides to the employer for respirator medical evaluations to the information required in Section 5144(e)(6)(A). In regards to vaccination or prophylaxis, the information provided to the employer would be limited to whether the employee is authorized to enter the restricted area. For referrals and follow-up medical evaluations, the information would be limited to the statement that the employee has received the evaluation, whether further evaluation is required, and whether the employee is authorized to work in the restricted area. Subsection (d)(9) would require training that is appropriate in content and vocabulary to the educational level, literacy and language of employees.

The effect of subsection (e) is to establish requirements for creating and maintaining records regarding zoonotic disease hazards and control measures. Subsection (e)(1) would require that records of implementation of hazard evaluation and control measures required by this section and training be maintained in accordance with Section 3203. Subsection (e)(2) would require that employee exposure records be maintained in accordance with Section 3204. These records would include zoonotic disease control procedures established under subsections (b), (c) and (d); records of entry into restricted areas; records of employee monitoring and atmospheric testing; and exposures to hazardous substances.

Subsection (e)(3) would require that records of medical surveillance be maintained in a confidential manner and in accordance with existing Section 3204. Subsection (e)(4) would require that records of the respiratory protection program be established and maintained in accordance with existing Section 5144 and Section 3204.

Subsection (e)(5) would establish access requirements for these records. Subsection (e)(5)(A) would require that all records established under this section be provided upon request to the Chief of the Division and his representatives, NIOSH, and the Local Health Officer. Subsection (e)(5)(B) would require that training records be made available to the employee, employee representatives, to the Chief and his representatives, and to NIOSH.

Subsection (e)(5)(C) would require that employee exposure records be made available to employees, employee representatives, the Chief and his representatives, NIOSH, and the Local Health Officer. Subsection (e)(5)(D) would require that employee medical records required by this section be provided to the employee, anyone having the employee's signed written consent,



the Chief and his representatives, NIOSH, and the Local Health Officer, in accordance with Section 3204.

## COST ESTIMATES OF PROPOSED ACTION

### Costs or Savings to State Agencies

State agencies whose employees are exposed to zoonotic disease hazards are required by current standards to develop procedures as part of the Injury and Illness Prevention Program (IIPP) and Sections 3360 through 3368 and 3380 through 3387. In addition to the requirements of Title 8, operations in agencies within the scope of this section must meet infection control or biosecurity guidelines applicable to their operations. Therefore, this standard is anticipated to provide no additional requirements or associated costs during normal operations. Field biologists and other employees at the CDFG and CDPH who are involved in disease surveillance would be affected by an alert involving wildlife potentially infected with a zoonotic aerosol transmissible pathogen. The provisions of subsection (b) would apply to those employers. These agencies have already adopted programs to protect employees who perform these functions, including avian influenza response plans. Other state agencies in which employees may have incidental contact with affected animal species, may elect to prevent occupational exposure through their IIPP, by instructing employees not to handle the effected dead animals or enter areas where these animals may be located. Employers who will deal with potentially infectious wildlife will be required by subsection (b) to adopt control procedures. These procedures are already required by Section 3203, as illustrated by citations issued by the Division for such exposures.<sup>6</sup> Therefore, this section is not expected to impose additional costs.

State agencies, whose employees visit establishments which have been identified by the CDFA or the USDA as being at increased risk of infection with zoonotic aerosol transmissible pathogens would be required to implement additional control measures under subsection (c). Some of these agencies include the CDFA, the University of California and Avenal State Prison, which has a poultry operation. At the time of such an alert, these agencies would be required to implement additional biosecurity and control measures in accordance with the recommendations of the USDA Animal and Plant Health Inspection Service (APHIS) protocols.<sup>7</sup> The CDFA implemented programs for control of exposures to END and bovine TB and has devel-

oped programs to control exposure to highly pathogenic avian influenza. The Division believes that these increased biosecurity protocols and associated zoonotic disease control procedures are required under existing Section 3203 as hazard control procedures, and therefore their requirement in this subsection does not impose additional costs. The University of California at Davis has developed recommendations for biosecurity and employee safety during such an alert period,<sup>8</sup> including the implementation of filtering facepiece respirators and other protective equipment. The Division further believes that existing Section 5144 would require the use of respiratory protection where there is an aerosol infectious disease hazard, and therefore respirator use does not impose new costs. The Division further believes that sanitation facilities for employees, including shower and change rooms and use of personal protective equipment would also be required to comply with existing standards, and therefore these requirements do not impose new costs. This proposal does not require CDFA or CDPH to develop alerts. It recognizes the existing jurisdiction of those agencies to deal with animal disease threats and provides a mechanism to implement concurrent health and safety protections.

State agencies that conduct operations involving the culling, killing, disposal etc., of infected animals or the cleaning of areas harboring those animals would be regulated under subsection (d). The Division has identified these agencies as CDFA, the Governor's Office of Emergency Services, CDPH and CDFG. The requirements of this subsection include additional written procedures including a detailed work plan, establishment of restricted areas and decontamination procedures, access to drinking water and sanitation facilities, and provisions to reduce the risk of heat illness. This subsection requires respiratory protection in enclosed areas, and specifies the minimum level of protection required. It also requires medical surveillance and training.

It is likely that operations addressed in subsection (d) would be considered hazardous waste operations or emergency response operations, which would be regulated under Section 5192, which includes all of the elements in this subsection. This subsection is more specific to the hazard and adopts some pre-existing hazard assessment which was developed with the assistance of an advisory committee, and with the participation of various agencies and private entities. To the extent that this subsection makes the requirements of Section 5192 more specific to the anticipated level of hazard, it will reduce costs from those imposed under Section 5192. For example, Section 5192 requires air supplied respirators and level B clothing for an uncharacterized haz-

<sup>6</sup> Gold, D. Memo to File. January 12, 2007

<sup>7</sup> Animal and Plant Health Inspection Service. Summary of the National Highly Pathogenic Avian Influenza National Response Plan. United States Department of Agriculture. April 2006

<sup>8</sup> Cardona C, Halverson, Hudson W. Poultry Industry Alert Levels. University of California at Davis. July 5, 2006



ardous waste site and the use of self-contained breathing apparatus (SCBA). The costs of implementation of these provisions is far greater than the costs imposed by the protective requirements included in this subsection, which are elastomeric facepiece respirators or powered air purifying respirators. For example, an SCBA costs approximately \$2000 to \$3500 as compared with a PAPR, which costs approximately \$700 to \$900, or a full facepiece respirator, which costs about \$10–\$250, or a half-face air purifying respirator, which costs \$50 or less.<sup>9</sup> Where Section 5192 would not apply, then these control measures would be required under Section 5144, Section 3395, Section 3203, and Sections 3360 through 3368 and 3380 through 3387. It is likely that these disease control and clean-up operations involving agriculture or wildlife will be conducted under the supervision of USDA, CDFA or another government agency, which will be developing both the detailed work plan and other site safety measures that will be required as a cost of the contract. In addition, the USDA is expected to pay for some or all of the costs of operations that are carried out under its authority and mandate to control animal diseases. Finally, funding has been provided to state agencies for avian/pandemic flu preparedness which includes the development of procedures such as those required under this section, and the purchase of equipment. Therefore, the Division believes that this subsection will not impose significant increased costs beyond those already projected to be incurred by employers who perform these operations.

Subsection (e) enumerates recordkeeping requirements for this section. It incorporates existing requirements of Sections 3203, 3204, 5144 and 5194. It would require employers with operations under subsections (c) and (d) to establish records of persons entering the restricted area and make those records available to the local health officer upon request. To the extent that this is a new requirement, it is not expected to impose significant costs. The Division estimates that the time spent maintaining a log of persons entering the restricted area (which may already be required by other agencies) as less than one half hour per work shift for which the requirement is in effect.

#### **Impact on Housing Costs**

The Board has made an initial determination that this proposal will not significantly affect housing costs.

#### **Impact on Businesses**

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. See discussion below.

<sup>9</sup> Lab Safety Supply, assorted items

#### **Cost Impact on Private Persons or Businesses**

The Board has identified the following components of the proposed standard that may result in additional costs or savings to some employers.

Employers whose employees are exposed to zoonotic disease hazards are required by current standards to develop procedures as part of the IIPP and Sections 3360 through 3368 and 3380 through 3387. In addition to the requirements of Title 8, operations in many of the establishments identified in the scope of this section must meet infection control or biosecurity guidelines and quarantine procedures applicable to their industry. Therefore, this standard is anticipated to provide no additional requirements or associated costs during normal operations.

Private employers who are affected by an alert involving wildlife potentially infected with a zoonotic aerosol transmissible pathogen include veterinarians, private parks and zoos, and animal shelters that accept wildlife. The provisions of subsection (b) would apply to those employers, who may elect to prevent occupational exposure through their IIPP, by instructing employees not to handle the effected dead animals or enter areas where these animals may be located. Employers who elect to deal with potentially infectious wildlife will be required by subsection (b) to adopt additional control procedures. These procedures would already be required by Section 3203, as illustrated by citations issued by the Division for such exposures. Therefore, this subsection is not expected to impose additional costs.

Subsection (c) would require agricultural establishments identified by the CDFA or USDA as being at increased risk of infection with zoonotic aerosol transmissible pathogens to implement additional control measures. As part of the CDFA or USDA order, affected establishments would be required to implement additional biosecurity measures, including restriction of persons and equipment entering the facility, posting of biosecure areas, increased use of such protective equipment as boot covers, and increased clothes changing and sanitation requirements. The Division believes that these increased biosecurity protocols and associated zoonotic disease control procedures would also be required under existing Section 3203, and therefore the requirements included in this subsection do not impose additional costs. The University of California at Davis has developed recommendations for biosecurity and employee safety during such an alert period,<sup>10</sup> including the use of filtering facepiece respirators and other protective equipment. The Division believes that existing Section 5144 would require the use of respiratory protection where there is an aerosol infectious disease

<sup>10</sup> Cardona C, Halverson, Hudson W. Poultry Industry Alert Levels. University of California at Davis. July 5, 2006

hazard, and therefore respirator use does not impose new costs. The Division further believes that sanitation facilities for employees, including shower and change rooms, and use of personal protective equipment, would be required to comply with existing standards, and therefore these requirements do not impose new costs. Therefore, this subsection clarifies how existing requirements would apply, and does not impose substantial additional costs.

Private employers who conduct operations involving the handling, culling, killing, disposal etc., of infected animals, or the cleaning of areas harboring those animals, would be regulated under subsection (d). This subsection includes additional written procedures including a detailed work plan, establishment of restricted areas and decontamination procedures, access to drinking water and sanitation facilities, and provisions to reduce the risk of heat illness. This subsection requires respiratory protection in enclosed areas and specifies the minimum level of protection required. It also requires medical surveillance and training. It is likely that the operations addressed in subsection (d) would be considered to be hazardous waste operations or emergency response operations, which would be regulated under Section 5192, which includes all of the elements in this subsection. This subsection is more specific to the hazard and adopts some pre-existing hazard assessment developed with the assistance of an advisory committee, and with the participation of various agencies and private entities. To the extent that this subsection makes the requirements of Section 5192 more specific to the anticipated level of hazard, it will reduce costs from those imposed under Section 5192 for work sites that have not been assessed. For example, Section 5192 requires air supplied respirators and level B clothing for an uncharacterized hazardous waste site and the use of self-contained breathing apparatus for emergency response. The costs of implementation of these provisions is far greater than the costs imposed by the protective requirement included in this subsection, which are elastomeric facepiece respirators or powered air purifying respirators. For example, an SCBA costs approximately \$2000 to \$3500 as compared to a PAPR, which costs approximately \$700 to \$900 or a full facepiece respirator, which costs about \$150–\$250, or a half-face air purifying respirator, which costs \$50 or less.<sup>11</sup> Where Section 5192 would not apply, then these control measures would be required under Section 5144, Section 3395, Section 3203, and Sections 3360 through 3368 and 3380 through 3387. It is likely that these disease control and clean-up operations involving agriculture or wildlife will be conducted under the supervision of the USDA, CDFA or other government

agency, which will be developing both the detailed work plan and other site safety measures that will be required as a cost of the contract. Therefore the Division believes that this section will not impose significant increased costs beyond those already projected to be incurred by employers who perform these operations.

Subsection (e) enumerates recordkeeping requirements for this section. It incorporates existing requirements under Sections 3203, 3204, 5144 and 5194. It would require employers with operations under subsections (c) and (d) to establish records of persons entering the restricted area, and to make those records available to the local health officer upon request. To the extent that this is a new requirement it is not expected to impose significant costs. The Division estimates that the cost of maintaining a log of persons entering the restricted area (which may already be required by other agencies) as less than one half hour per work shift for which the requirement is in effect.

#### **Costs or Savings in Federal Funding to the State**

The proposal will not result in costs or savings in federal funding to the state.

#### **Costs or Savings to Local Agencies or School Districts Required to be Reimbursed**

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

#### **Other Nondiscretionary Costs or Savings Imposed on Local Agencies**

This proposal does impose nondiscretionary costs or savings on local agencies.

The costs and savings expected to be incurred by local agencies are those of a typical business, as described above. Overall, this proposal is expected to result in savings in regards to respirator use that will offset any additional costs incurred in the implementation of other provisions of the standard.

### **DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because this standard does not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state

<sup>11</sup> Lab Safety Supply, assorted items

policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed standard does not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standard.

The proposal does not impose additional duties upon the local health officer. It recognizes the existing authority of the local health officer under Title 17 of the California Code of Regulations and the Health and Safety Code to order control measures to protect the health of persons in the jurisdiction.

#### EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed standard may affect small businesses.

#### ASSESSMENT

The adoption of the proposed standard will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/ UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified

alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than August 15, 2008. The official record of the rule-making proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on August 21, 2008, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at [oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov). The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Marley Hart, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

## TITLE 9. DEPARTMENT OF REHABILITATION

### TITLE 9. REHABILITATIVE AND DEVELOPMENTAL SERVICES DIVISION 3. DEPARTMENT OF REHABILITATION

#### NOTICE OF PROPOSED RULEMAKING

The Department of Rehabilitation (Department) proposes to amend existing regulations described



below, after considering all comments, objections, or recommendations regarding the proposal.

### PROPOSED REGULATORY ACTION

The Department proposes to amend California Code of Regulations (CCR), Title 9, Division 3, Section 7331.

### PUBLIC HEARING

A public hearing will be held on Monday, August 18, 2008 at the Department of Rehabilitation, 721 Capitol Mall, Sacramento, CA 95814. The hearing will begin at 10:00 a.m. and will be adjourned immediately following receipt of testimony. It is requested that persons who testify at the hearing also submit two copies of their testimony to the hearing officer.

### WRITTEN COMMENT PERIOD

Any interested party may submit written comments on the proposed rulemaking action. The written comment period closes at 5:00 p.m. on Monday, August 18, 2008. Comments must be received by that time at the Department of Rehabilitation, Office of Legal Affairs/Regulations, 721 Capitol Mall, 3<sup>rd</sup> Floor, Sacramento, CA 95814. Comments may be submitted by U.S. Postal Service or electronically to [jloyola@dor.ca.gov](mailto:jloyola@dor.ca.gov).

### ACCESSIBILITY

On request, the Department will provide copies of the regulation proposal in large print, Braille, on audiotape, or 3.5" diskette. The Department will also transmit copies of the regulation proposal electronically on request.

The public hearing room is accessible. Individuals who are deaf or hearing impaired and require an interpreter at the hearing, or individuals with disabilities who need any other special assistance, should contact either of the Department contacts specified in this notice two weeks in advance of the date of the hearing.

### AUTHORITY AND REFERENCE

Authority cited: Sections 19006 and 19016, Welfare and Institutions Code.

Reference: 29 USC Sections 705(5) and 723; 34 CFR Sections 361.5(b)(9), 361.48, and 361.50; and Sections 19011 and 19401, Welfare and Institutions Code.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Community Rehabilitation Programs (CRPs), as defined in 29 USC Section 705(5) and 34 CFR Section 361.5(b)(9) provide vocational rehabilitation work services to eligible individuals being served by the Department of Rehabilitation (Department). Pursuant to Section 7331(a) of the Department's existing regulations, the Department shall, with the exception of facilities providing services primarily to the blind, deaf and/or independent living centers, require that public and private non-profit rehabilitation facilities offering work oriented programs and services be accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF) in the primary program emphasis of the services to be purchased. Applicants for grant funding must also meet accreditation criteria when applicable or be certified by the Department. To be certified they shall have a plan for seeking accreditation. The Department's existing regulations under Section 7331(b) specify that the Department shall supplement programs accredited by CARF with a certification of specific services. This is consistent with Welfare and Institutions Code Section 19401, which provides, in part, that the Department may provide consultive services to organizations in the establishment and operation of CRPs, including establishing professional standards (such as Department certification). Section 7331(b) of the Department's existing regulations also specifies that this certification will take place no less than every two years and will be based on standards developed by the Department. The Department is proposing to amend its existing regulations to certify specific services provided by CRPs no less than every three years, in order to better coincide with the time frames and standards set by CARF. Under the proposed regulations, Department certification and CARF accreditation may be done concurrently, which will conserve State resources by reducing staff time currently required in the Department certification process.

The Department proposes to add Section 7331(e) to its existing regulations so it may waive a requirement for CARF accreditation of a CRP when annual service expenditures to a specific CRP by the Department are at or below the threshold level of \$50,000, as averaged over the prior three consecutive years for that service. The Department is proposing a waiver of CARF accreditation based on a threshold level of service expenditures because of a gap in the provision of Department services to individuals with the most significant disabilities who live in rural areas of California. Due to the significant cost of accreditation by CARF, smaller CRPs in rural areas of California cannot afford to be accredited by CARF and then certified by the Department



to provide work services that are required by the Department's consumers, who do not receive the full range of services that they might otherwise receive. For rural programs serving a small number of Department consumers, it is necessary to develop and support services that serve the Department's goal, which is to make available vocational rehabilitation services to eligible individuals to assist those individuals to prepare for, secure, retain, or regain an employment outcome that is consistent with such individuals' strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice, consistent with 29 USC Section 723 and 34 CFR Section 361.48. This goal should be accomplished without undue hardship to the eligible individual, the CRP, or the Department. To establish a waiver of CARF accreditation, the Department has used a threshold level of \$50,000, considering the cost of CARF accreditation (which may be as high as \$6,500) and the fact that there are currently no CRPs providing any services to individuals with disabilities in the counties Del Norte, Lassen, Colusa, Sierra, Trinity, Alpine, Mono, Calaveras, Tuolumne, and Inyo. Section 7331(e) of the proposed regulations also provides that the \$50,000 threshold level shall be reviewed and adjusted by the Department no less than every three fiscal years. This is necessary to monitor the number of rural programs serving Department consumers within the Department's service delivery system. A threshold level shall continue to be maintained as long as it is necessary to support rural programs serving small numbers of Department consumers. This is consistent with 34 CFR Section 361.50, which provides that the Department must develop and maintain written policies and procedures covering the nature and scope of vocational rehabilitation services specified in 34 CFR Section 361.48 and the criteria under which each service is provided.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has determined that these proposed regulations do not impose a mandate on local agencies or school districts and do not require state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4.

The Department has determined that there is no cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, no other non-discretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the state. The proposed regulations pertain to the administration and operation of the Department's vocational re-

habilitation program. The proposed regulations provide for Department certification of specific services provided by private and public non-profit Community Rehabilitation Programs (CRPs) every three years. The proposed regulations also provide for a waiver of a requirement for accreditation of CRPs by the Commission on Accreditation of Rehabilitation Facilities (CARF), under certain conditions specified in Section 7331(e) of the proposed regulations.

The Department has made an initial determination that these proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. These proposed regulations pertain to the administration and operation of the Department's vocational rehabilitation program and have no impact on California businesses. The proposed regulations provide for Department certification of specific services provided by private and public non-profit Community Rehabilitation Programs (CRPs) every three years. The proposed regulations also provide for a waiver of a requirement for accreditation of CRPs by the Commission on Accreditation of Rehabilitation Facilities (CARF), under certain conditions specified in Section 7331(e) of the proposed regulations.

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Department has determined that these proposed regulations will not affect small business as defined in Government Code Section 11342.610. These proposed regulations pertain to the administration and operation of the Department's vocational rehabilitation program. The proposed regulations pertain to private and public non-profit entities, which are not considered to be small businesses pursuant to Government Code Section 11342.610(b)(6).

The Department has determined that these proposed regulations will not affect the following: 1) the creation or elimination of jobs within the State of California; 2) the creation of new businesses or the elimination of existing businesses within the State of California; or 3) the expansion of businesses currently doing business within the State of California. These proposed regulations pertain to the administration and operation of the Department's vocational rehabilitation program and have no impact on California businesses. The proposed regulations provide for Department certification of specific services provided by private and public non-profit Community Rehabilitation Programs (CRPs) every three years. The proposed regulations also provide for a waiver of a requirement for accreditation of CRPs by the Commission on Accreditation of Rehabilitation Fa-

cilities (CARF), under certain conditions specified in Section 7331(e) of the proposed regulations.

The Department has made an initial determination that these proposed regulations will not have a significant effect on housing costs. The proposed regulations pertain to the administration and operation of the Department's vocational rehabilitation program and do not directly or indirectly affect housing costs.

### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the aforementioned public hearing or during the written comment period.

### CONTACT PERSON

Inquiries concerning the substance or express terms of the proposed regulations and requests for copies of the text of the proposed regulations, the initial statement of reasons, the modified text of the the final statement of reasons, or any other information proposed rulemaking is based should be directed to:

Primary Contact:

Kelly Hargreaves, Chief Counsel  
Department of Rehabilitation  
Office of Legal Affairs/Regulations  
721 Capitol Mall, 3<sup>rd</sup> Floor  
Sacramento, CA 95814  
Telephone: (916) 558-5828  
FAX: (916) 558-5826  
TTY: (916) 558-5807

Designated Backup Contact Person

Juanita Loyola, Regulations Analyst  
Department of Rehabilitation  
Office of Legal Affairs/Regulations  
721 Capitol Mall, 3<sup>rd</sup> Floor  
Sacramento, CA 95814  
Telephone: (916) 558-5833  
FAX: (916) 558-5826  
TTY: (916) 558-5807

An initial statement of reasons has been prepared for this rulemaking and is now available from either of the two contact persons listed above. A complete rulemaking file, containing all materials and documentation related to the proposed rulemaking, is maintained by the Department at the above address.

### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Pursuant to Government Code Section 11340.85, within a reasonable time of issuance, the following documents related to this proposed rulemaking will be posted on the Department's Internet website: public notice; initial statement of reasons; final statement of reasons; notice of a decision not to proceed; the text of a proposed action; a statement of any decision made by the Office of Administrative Law (OAL) regarding a proposed action; the date a rulemaking action is filed with the Secretary of State; the effective date of a rulemaking action; and a statement to the effect that a business or person submitting a comment regarding the proposed action has the right to request a copy of the final statement of reasons. The Department's Internet address is <http://www.dor.ca.gov>. To view documents related to this proposed rulemaking, click on "About DOR," then click on "FYI" and select "Proposed Changes to DOR Regulations." You may access all of the Department's regulations using the Internet address for the Office of Administrative Law, which is <http://www.oal.ca.gov>. The Department's regulations can be found under Title 9, Division 3 of the California Code of Regulations (CCR).

### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After consideration of public comments, the Department may adopt the proposed regulations substantially as set forth without further notice. If the proposed regulations are modified prior to adoption and the change is not solely grammatical or nonsubstantive in nature, the full text of the resulting regulations, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation. The modified regulations, if any, will be posted on the Department's Internet website at <http://www.dor.ca.gov>. To view modified regulations, click on "About DOR," then click on "FYI" and select "Proposed Changes to DOR Regulations."

Any written comments received by the Department regarding the modified regulations must be responded to in the final statement of reasons required by Government Code Section 11346.9. Comments may be sub-

mitted by U.S. Postal Service or electronically to [jloyola@dor.ca.gov](mailto:jloyola@dor.ca.gov).

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

Copies of the final statement of reasons may be obtained by any interested party on request from either of the contact persons specified herein and will be available on the Department's Internet website within a reasonable period of time after completion. The Department's Internet address is <http://www.dor.ca.gov>. To view the final statement of reasons and other documents related to this rulemaking go to the Department's Internet website, click on "About DOR," then click on "FYI" and select "Proposed Changes to DOR Regulations."

### TITLE 11. PEACE OFFICER STANDARDS AND TRAINING

#### NOTICE OF PROPOSED REGULATORY ACTION Regulation 1081

#### Child Safety When a Caretaker Parent or Guardian is Arrested

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Chapter 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code §11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

**Public Comments Due by August 18, 2008, at 5:00 p.m.**

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by FAX at 916.227.5271 or by letter to the:

Commission on POST  
Attention: Dave Spisak  
1601 Alhambra Boulevard  
Sacramento, CA 95816-7083

Following the close of the public comment period, the Commission may adopt the proposal substantially as described below or may modify the original proposal with sufficiently related changes. With the exception of technical or grammatical changes, the full text of a modified proposal will be available for 15 days prior to its

adoption from the person designated in this notice as the contact person. The Commission will also mail the full text to persons who submit written comments related to the proposal or who have requested notification of any changes to the proposal.

#### Authority and Reference

This proposal is made pursuant to the authority vested by Penal Code §13503 — POST powers and § 13506 — POST authority to adopt regulations. This proposal is intended to interpret, implement, and make specific Penal Code §13503(e) which authorizes POST to develop and implement programs for increasing the effectiveness of law enforcement, including programs involving training and education courses; and Penal Code § 13517.7 which authorizes POST to develop guidelines and training for use by state and local law enforcement officers to address issues related to child safety when a caretaker parent or guardian is arrested.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In response to Penal Code § 13517.7, the Commission on POST proposes to adopt course curriculum that addresses child safety when a caretaker parent or guardian is arrested. Added in 2006 by Senate Bill 1942 (Nava), Penal Code §13517.7 directs the Commission to develop guidelines and training for use by state and local law enforcement officers to include six topics in both the guidelines and the training.

This proposal addresses only the course curriculum related to child safety when a caretaker parent or guardian is arrested.

POST worked closely with a diverse group of subject matter experts (SME) to develop the curriculum and the guidelines, and to produce a telecourse for comprehensive training on this topic. The SME group included involved stakeholders who represented law enforcement, county child welfare agencies, and child safety advocates. Upon completion, POST will distribute the telecourse to all California state and local law enforcement agencies, for use in training officers in addressing the issue of child safety when caretaker parent or guardian is arrested.

The six topics specified for coverage in Penal Code §13517.7 have been included in the guidelines and in the course curriculum that is proposed for adoption in Regulation 1081 of the POST Administrative Manual (PAM). As a matter of routine practice, POST adopts legislative mandates in the appropriate regulations within PAM.

At its January 2008 meeting, the Commission approved the proposal to adopt the training curriculum, subject to successful completion of the rule making process. Adoption of the new curriculum requirements in

POST regulation 1081 will comply with the legislative mandate to provide resources to local law enforcement for addressing child safety when a custodial parent or guardian is arrested.

#### **Local Mandate**

This proposal does not impose a mandate on local agencies or school districts.

#### **Fiscal Impact Estimates**

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with § 17500) of the Government Code, Division 4. This proposal does not impose other nondiscretionary cost or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state.

#### **Costs or Savings to State Agencies**

POST anticipates no additional costs or savings to state agencies.

#### **Business Impact/Small Businesses**

The Commission has made an initial determination that this regulatory proposal would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The proposal does not affect small businesses, as defined by Government Code §11342.610, because the Commission sets selection and training standards for law enforcement and does not have an impact on California businesses, including small businesses.

#### **Assessment Regarding Effect on Jobs/Businesses**

The Commission has determined that this regulatory proposal will not have any impact on the creation or elimination of jobs and will not result in the elimination of existing businesses or the creation or expansion of businesses in the State of California.

#### **Cost Impacts on Representative Private Persons or Businesses**

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### **Effect on Housing Costs**

None

#### **Alternatives**

The Commission must determine that no reasonable alternative considered by the agency, or otherwise identified and brought to the agency's attention, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as, and less burdensome to, affected private persons than the proposed action.

#### **Contact Persons**

Please direct inquiries or written comments about the proposed regulatory action to the following:

Dave Spisak  
Commission on POST  
1601 Alhambra Boulevard  
Sacramento, CA 95816-7083  
916.227.0539 or [Dave.Spisak@post.ca.gov](mailto:Dave.Spisak@post.ca.gov)  
916.227.5271 (FAX)

or

Michael Hooper  
Commission on POST  
1601 Alhambra Boulevard  
Sacramento, CA 95816-7083  
916.227.2820 or [Michael.Hooper@post.ca.gov](mailto:Michael.Hooper@post.ca.gov)

#### **Text of Proposal**

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at 1601 Alhambra Boulevard, Sacramento, CA 95816. These documents are also located on the POST website at: <http://www.post.ca.gov/RegulationNotices/RegulationNotices.asp>.

#### **Availability and Location of the Rulemaking File and the Final Statement of Reasons**

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above. To request a copy of the Final Statement of Reasons once it has been prepared, submit a written request to the contact person(s) name above.

## **TITLE 11. PEACE OFFICER STANDARDS AND TRAINING**

### **NOTICE OF PROPOSED REGULATORY ACTION**

#### ***Training Specifications for the Investigation and Trial Preparation Course*** **Regulation 1005 and Procedure D-14**

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Chapter 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code §11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.



**Public Comments Due by August 18, 2008, at 5:00 p.m.**

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by FAX at 916.227.5271 or by letter to the:

Commission on POST  
Attention: Dave Spisak  
1601 Alhambra Boulevard  
Sacramento, CA 95816-7083

Following the close of the public comment period, the Commission may adopt the proposal substantially as described below or may modify the original proposal with sufficiently related changes. With the exception of technical or grammatical changes, the full text of a modified proposal will be available for 15 days prior to its adoption from the person designated in this notice as the contact person. The Commission will also mail the full text to persons who submit written comments related to the proposal or who have requested notification of any changes to the proposal.

**Authority and Reference**

This proposal is made pursuant to the authority vested by Penal Code § 13503 — POST powers and § 13506 — POST authority to adopt regulations. This proposal is intended to interpret, implement, and make specific Penal Code § 13503(e) which authorizes POST to develop and implement programs for increasing the effectiveness of law enforcement, including programs involving training and education courses; § 13510 which authorizes POST to adopt and amend rules establishing minimum standards for California local law enforcement officers; and § 13510.5 which authorizes POST to adopt and amend standards for certain other designated California peace officers.

**INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW**

POST Regulation 1005(a)(2) requires that “Every district attorney investigator or inspector (Penal Code § 830.1), regularly employed and paid as such, in addition to the Regular Basic Course training requirement set forth in Regulation 1005(a)(1), shall complete a POST-certified Investigation and Trial Preparation Course, PAM section D-14, within 12 months from the date of appointment.” Commission Procedure D-14 requires that presenters deliver instruction on all learning objectives and the minimum course hours of instruction prescribed in the *Training Specifications for the Investigation and Trial Preparation Course* publication incorporated by reference in POST Regulation 1005(a)(2).

POST is proposing the following changes to the training specifications:

- Re-distribute course hours to assure adequate teaching time for each domain
- Add active verbs to the learning objectives in the training specifications document to convey the intent and level of training to both instructors and students
- Revise the design and delivery of course to conform to the adult learning methodologies adopted for other peace officer basic courses
- Add/modify course content to reflect contemporary changes in job functions and emerging training needs for the district attorney investigator
- Modify language to improve the clarity, accuracy, readability, level of mastery, and grammar.

The amendments are proposed by POST staff, Subject Matter Experts (SMEs) and a Steering Committee convened by the POST Basic Training Bureau. All changes to curriculum began with recommendations from law enforcement practitioners or, in some cases, in consideration of legislative changes. POST facilitated the meetings attended by curriculum advisors and subject matter experts (SMEs) who provided recommended changes to existing course curriculum. The recommendations were reviewed by the Steering Committee, which is chaired by a non-POST person, and comprised of a statewide representation of District Attorney Chief Investigators, an Assistant Chief Investigator, Supervising Investigators, and a Senior Investigator. Subsequently, the California District Attorney Investigators Association and the California District Attorney Association reviewed and approved the recommendations. The completed work of all committees was then submitted to the POST Commission for final review.

At its July 2006 meeting, the Commission approved the proposed amendments to the *Training Specifications for the Investigation and Trial Preparation Course* publication, which is incorporated by reference into POST Regulation 1005 and Procedure D-14. Upon adoption of the proposed amendments, course presenters will be required to teach and test to the updated curriculum.

**Local Mandate**

This proposal does not impose a mandate on local agencies or school districts.

**Fiscal Impact Estimates**

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with § 17500) of the Government Code, Division 4. This proposal does not impose other nondiscretionary cost or

savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state.

**Costs or Savings to State Agencies**

POST anticipates no additional costs or savings to state agencies.

**Business Impact/Small Businesses**

The Commission has made an initial determination that this regulatory proposal would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The proposal does not affect small businesses, as defined by Government Code §11342.610, because the Commission sets selection and training standards for law enforcement and does not have an impact on California businesses, including small businesses.

**Assessment Regarding Effect on Jobs/Businesses**

The Commission has determined that this regulatory proposal will not have any impact on the creation or elimination of jobs and will not result in the elimination of existing businesses or the creation or expansion of businesses in the State of California.

**Cost Impacts on Representative Private Persons or Businesses**

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Effect on Housing Costs**

None

**Alternatives**

The Commission must determine that no reasonable alternative considered by the agency, or otherwise identified and brought to the agency's attention, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as, and less burdensome to, affected private persons than the proposed action.

**Contact Persons**

Please direct inquiries or written comments about the proposed regulatory action to the following:

Dave Spisak  
Commission on POST  
1601 Alhambra Boulevard  
Sacramento, CA 95816-7083  
916.227.0539 or [Dave.Spisak@post.ca.gov](mailto:Dave.Spisak@post.ca.gov)  
916.227.5271 (FAX)

Frank Decker  
Commission on POST  
1601 Alhambra Boulevard  
Sacramento, CA 95816-7083  
916.227.4261 or [Frank.Decker@post.ca.gov](mailto:Frank.Decker@post.ca.gov)

**Text of Proposal**

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at 1601 Alhambra Boulevard, Sacramento, CA 95816. These documents are also located on the POST website at: <http://www.post.ca.gov/RegulationNotices/RegulationNotices.asp>.

**Availability and Location of the Rulemaking File and the Final Statement of Reasons**

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above. To request a copy of the Final Statement of Reasons once it has been prepared, submit a written request to the contact person(s) name above.

**TITLE 15. DEPARTMENT OF  
CORRECTIONS AND REHABILITATION**

**NOTICE OF PROPOSED REGULATIONS**

**California Code of Regulations  
Title 15, Crime Prevention and Corrections  
Department of Corrections and Rehabilitation**

**NOTICE IS HEREBY GIVEN** that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5058, in order to implement, interpret and make specific PC Section 5054, proposes to adopt and amend Sections 3000, 3001, 3041.3, 3075.3, 3294.5, 3356, 3369.5, 3370, 3376.1, 3382, 3383, 3393, 3401, 3402, 3405, 3406, 3407, 3408, 3410, 3411, 3414, 3430, 3432, and 3433 in the California Code of Regulations (CCR), Title 15 to amend and update current regulatory text and definitions primarily related to the California Department of Corrections and Rehabilitation, Division of Adult Parole Operations (DAPO).

**PUBLIC HEARING**

Date and Time: **August 21, 2008 — 9:00 a.m. to 10:00 a.m.**

or

Place: Corrections Standards Authority  
Large Conference Room  
660 Bercut Drive, West Entrance  
Sacramento, CA 95811

Purpose: To receive comments about this action.

- Cost or savings to any state agency: *None*
- Other nondiscretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

#### PUBLIC COMMENT PERIOD

The public comment period will close, **August 21, 2008, at 5:00 p.m.** Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 341-7366; or by e-mail at [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov) before the close of the comment period.

#### CONTACT PERSON

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief  
Regulation and Policy Management Branch  
Department of Corrections and Rehabilitation  
P.O. Box 942883, Sacramento, CA 94283-0001  
Telephone (916) 341-7390**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**Diane Hawkins  
Regulation and Policy Management Branch  
Telephone (916) 322-8447**

Questions regarding the substance of the proposed regulatory action should be directed to:

**William Dunkak  
Division of Adult Parole Operations  
Telephone (916) 327-1136**

#### LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Government Code Section 17561.

#### FISCAL IMPACT STATEMENT

- Cost to any local agency or school district that is required to be reimbursed: *None*

#### EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

#### COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

#### ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION

The Department has determined that the proposed regulation will have no affect on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

#### CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying

out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

#### AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared, and will make available, the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.cdcr.ca.gov>.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

#### AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

PC Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in

this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Director. Commencing July 1, 2005, the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

- This action amends 24 sections of the California Department of Corrections and Rehabilitation CCR (Title 15), Division 3 for the purpose of updating current regulatory text and definitions primarily related to the CDCR, Division of Adult Parole Operations (DAPO).
- These proposed regulations update current language for the purpose of correction, and to accurately reflect the changes that have occurred within the Department due to the 2005 reorganization as directed by Senate Bill 737 (2005/2006 session). These proposed changes include, but are not limited to, name changes to individual units, titles, and positions. In addition, for the purpose of clarifying current language and to meet departmental standards, definitions of various terms focusing on the parole and the parole revocation process, have been amended or added. These changes will help to enhance the department's ability to supervise parolees, which in turn will assist in a more successful reintegration back into the community.
- The reference to the CDC Form 163, Certificate of Discharge, has been changed due to the revision of the form. The acronym "CDC" is replaced with "CDCR." In addition, the revision date of (Rev. 7/92) has been changed to reflect the current version (Rev. 10/06), so the revised form now reads, CDCR Form 163 (Rev. 10/06), Certificate of Discharge, which is incorporated by reference into the regulations. Changes to the form includes adding reference and explanation to Penal Code Sections 4852 and 4853, voter registration, and the



latest updated telephone numbers to the DAPO  
Regional Parole Offices.

## GENERAL PUBLIC INTEREST

### DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

NOTICE IS HEREBY GIVEN that the prospective contractors listed below have been required to submit a Nondiscrimination Program (NDP) or a California Employer Identification Report (CEIR) to the Department of Fair Employment and Housing, in accordance with the provisions of Government Code Section 12990. No such program or (CEIR) has been submitted and the prospective contractors are ineligible to enter into State contracts. The prospective contractor's signature on Standard Form 17A, 17B, or 19, therefore, does not constitute a valid self-certification. Until further notice, each of these prospective contractors in order to submit a responsive bid must present evidence that its Nondiscrimination Program has been certified by the Department.

ASIX Communications, Inc.  
DBA ASI Telesystems, Inc.  
21150 Califa Street  
Woodland Hills, CA 91367

Bay Recycling  
800 77th Avenue  
Oakland, CA 94621

C & C Disposal Service  
P.O. Box 234  
Rocklin, CA 95677

Choi Engineering Corp.  
286 Greenhouse  
Marketplace, Suite 329  
San Leandro, CA 94579

Fries Landscaping  
25421 Clough  
Escalon, CA 95320

Marinda Moving, Inc.  
8010 Betty Lou Drive  
Sacramento, CA 95828

MI-LOR Corporation  
P.O. Box 60  
Leominster, MA 01453

Peoples Ridesharing  
323 Fremont Street  
San Francisco, CA 94105

San Diego Physicians & Surgeons Hospital  
446 26th Street  
San Diego, CA

Southern CA Chemicals  
8851 Dice Road  
Santa Fe Springs, CA 90670

Tanemura and Antle Co.  
1400 Schilling Place  
Salinas, CA 93912

Turtle Building Maintenance Co.  
8132 Darien Circle  
Sacramento, CA 95828

Univ Research Foundation  
8422 La Jolla Shore Dr.  
La Jolla, CA 92037

Vandergoot Equipment Co.  
P.O. Box 925  
Middletown, CA 95461

### DEPARTMENT OF FISH AND GAME

Department of Fish and Game —

Public Interest Notice

For Publication July 4, 2008

CESA CONSISTENCY DETERMINATION

REQUEST FOR

San Pablo Dam Seismic Upgrade Project  
Contra Costa County  
2080-2008-014-03

The Department of Fish and Game (Department) received a notice on June 18, 2008 that the East Bay Municipal Utility District (EBMUD) proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). This project consists of a seismic upgrade to San Pablo Dam located approximately three miles southeast of El Sobrante and east of Richmond in Contra Costa County, CA, entailing removal of the existing downstream buttress, improvements to the foundation alluvium beneath the downstream toe of the dam, and construction of a larger downstream buttress (Project). Project activities associated with stockpiling, excavation and grading, the construction of a new buttress, and modifications to water channels will result in permanent impacts to 2.62 acres of aquatic and riparian habitat of the Alameda Whipsnake (*Masticophis lateralis euryanthus*). Noise, sediment and stockpiling will have temporary impacts to 0.44 acres of aquatic and riparian habitat of the Alameda Whipsnake. Construction will have temporary impacts on 24.2 acres of upland and scrub habitat of the Alameda Whipsnake.

The US Fish and Wildlife Service (Service) issued a "no jeopardy" federal biological opinion

(81420–2008–F–0253)(BO) and incidental take statement (ITS) to the U.S. Army Corps of Engineers (Corps) on April 15, 2008, which considered the effects of the project on the Federally threatened and State threatened Alameda Whipsnake. The Service issued an amendment (81420–2008–F–0253–R001) to the BO to the Corps on May 22, 2008, and a second amendment (81420–2008–F–0253–R002) to the BO on June 17, 2008. Pursuant to California Fish and Game Code Section 2080.1, EBMUD is requesting a determination that the BO and ITS, as amended, are consistent with CESA for purposes of the proposed Project. If the Department determines the BO and ITS are consistent with CESA for the proposed Project, Caltrans will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the Project.

## DEPARTMENT OF FISH AND GAME

### Department of Fish and Game —

#### Public Interest Notice

For Publication July 4, 2008

### CESA CONSISTENCY DETERMINATION

#### REQUEST FOR

Zone 7 Altamont Water Treatment Plant

and Pipeline Project

Alameda County

2080–2008–015–03

The Department of Fish and Game (Department) received a notice on June 18, 2008 that the Zone 7 Water Agency (Zone 7) proposes to rely on a reinitiated formal consultation between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). This project consists of the construction and operation of a water treatment plant, a pipeline and pumping station for raw water delivery, a treated water pipeline, and improvements to Dyer Road in Alameda County (Project). Project activities associated with staging and construction will result in temporary impacts to approximately 24.6 acres of upland habitat suitable for the San Joaquin kit fox (*Vulpes macrotis mutica*) and permanent loss of approximately 26.8 acres of upland habitat suitable for the San Joaquin kit fox.

On June 13, 2008, The U.S. Fish and Wildlife Service (Service) issued an amendment (81420–2006–F–004) to their original “no jeopardy” federal biological opinion (81420–2007–F–0004)(BO) and incidental take statement (ITS) originally issued on February 28, 2008 to the U.S. Army Corps of Engineers (Corps), which considered the effects of the project on the Federally endangered and State threatened San Joaquin kit fox. Pursuant to California Fish and Game Code Section 2080.1, Zone 7 is requesting a determination that the BO and ITS, as amended, are consistent with CESA for

purposes of the proposed Project. If the Department determines the BO and ITS are consistent with CESA for the proposed Project, Zone 7 will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the Project.

## DEPARTMENT OF FISH AND GAME

### Department of Fish and Game —

#### Public Interest Notice

For Publication July 4, 2008

### PROPOSED RECOVERY ACTIONS FOR A FULLY PROTECTED SPECIES

Recovery actions for San Francisco Garter Snake  
on the West of Bayshore property at San  
Francisco International Airport  
(*Thamnophis sirtalis tetrataenia*)

The Department has received a proposal from the San Francisco International Airport to carry out various activities on the West of Bayshore (WOB) property to enhance habitat for a number of rare species, including the San Francisco garter snake (SFGS). The ultimate goal of the Plan is to ensure the long-term viability of the SFGS population on the WOB property. It is anticipated that the proposed activity will commence during the summer of 2008. The initial phase will be completed no later than October 2009 and monitoring and adaptive management will continue through 2017. The following objectives have been identified as being essential elements to achieve the stated recovery goal:

- (1) Create aquatic habitat conditions that will result in increased amphibian prey availability (specifically California red-legged frog (CRLF) and Pacific treefrog by increasing the hydroperiod of existing seasonal wetlands and expanding existing aquatic habitat areas);
- (2) Reduce sediment input into Cupid Row Canal to maintain suitable breeding habitat and reduce significant disturbance resulting from maintenance activities;
- (3) Enhance upland habitat for SFGS and CRLF through the removal of invasive non-native species (iceplant and pampas grass) and creation of upland retreats using cut vegetation/debris;
- (4) Conduct annual monitoring of habitat conditions on the WOB property, with a particular emphasis on monitoring the specific areas where the habitat enhancement activities have been implemented; and
- (5) As part of the amphibian monitoring program, ensure that American bullfrogs (*Rana catesbeiana*) and African clawed frogs (*Xenopus laevis*) do not become established on the WOB property.

More detailed descriptions of the habitat restoration activities are available by requesting a copy of the biological opinion referenced below from the U.S. Fish and Wildlife Service, California/Nevada Regional Office, Sacramento, California. Biological activities include surveys for SFGS in areas that may reveal the effectiveness of restoration efforts on populations of SFGS, such as near the canals and wetlands. These surveys may include live-trapping (via funnel traps and drift fences), cover board or visual surveys.

The San Francisco garter snake is a State Fully Protected reptile, and a State and Federally-listed Endangered species. Anyone capturing or handling the species is required to have a Scientific Collecting Permit (SCP), a Federal Endangered Species Permit, and additional written authorization from the Department for research on Fully Protected species. The applicants have obtained a Biological Opinion ("Biological Opinion on the Proposed Recovery Actions for the Endangered San Francisco Garter Snake and the Threatened California Red-legged Frog at the West-of-Bayshore property of the San Francisco International Airport" reference number '81420-2008-TA-1021' to conduct these habitat enhancement activities within habitat of the San Francisco garter snake.

Pursuant to California Fish and Game Code (FGC) Section 5050, the Department may authorize take of Fully Protected reptiles after 30 days notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 5050 for take of Fully Protected reptiles, it would issue the authorization on or after August 1, 2008, for a term of ten years. Contact: Wildlife Branch, 1812 Ninth Street, Sacramento, CA 95811, Attn.: Dale Steele.

## PROPOSITION 65

### OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

California Environmental Protection Agency  
Office of Environmental Health Hazard Assessment

#### NOTICE TO INTERESTED PARTIES

July 4, 2008

#### TITLE 27 California Code of Regulations, Section 25601<sup>1</sup>

<sup>1</sup> Formerly Title 22, Cal. Code of Regs., section 12601

### PROPOSITION 65 — CLEAR AND REASONABLE WARNINGS NON-SUBSTANTIVE CHANGES

The Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for implementation of Proposition 65 (The Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code section 25249.5, et. seq., hereafter referred to as Proposition 65 or the Act). As part of its responsibilities related to Proposition 65, OEHHA maintains the regulations implementing the Act. These regulations can be found in Title 27 of the California Code of Regulations, sections 25000-27000<sup>2</sup> inclusive.

Based on discussions with interested parties, OEHHA has determined that certain sections of the Proposition 65 regulations are not organized in a manner that is easily understood by persons not trained in law. As part of an ongoing project to clarify and update these regulatory provisions, OEHHA is considering reorganizing section 25601 of Title 27, California Code of Regulations to make it more user-friendly. No substantive changes will be made to the regulation. The current regulation was simply restructured, with individual subjects being placed under subsections and with added subtitles. No regulatory language was removed or added. This reorganization would in no way alter the purpose or applicability of this regulation. However, the reorganization into subsections will facilitate the general public's understanding of the regulation and also make potential future changes to this regulation easier to organize.

OEHHA is offering an opportunity for the public to comment on this potential, non-substantive reorganization. A copy of the proposed changes in underline and strikeout version along with a "clean" copy for easier reading, are attached to this notice.

Interested parties may submit their comments or suggestions concerning the possible reorganization of Section 25601 by 5:00 p.m. on August 1, 2008. All submissions should be directed to:

Fran Kammerer  
Staff Counsel  
Office of Environmental Health Hazard Assessment  
1001 I Street, MS# 25B  
Sacramento, CA 95814  
Or via e-mail to [fkammerer@oehha.ca.gov](mailto:fkammerer@oehha.ca.gov)

<sup>2</sup> Formerly Title 22, Cal. Code of Regs., sections 12000-14000

**OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

**California Environmental Protection Agency  
Office of Environmental Health  
Hazard Assessment  
Notice to Interested Parties**

**July 4, 2008**

**ANNOUNCEMENT OF EXTENSION  
OF PUBLIC COMMENT PERIOD**

**Proposed Public Health Goal  
for Styrene in Drinking Water**

The Office of Environmental Health Hazard Assessment (OEHHA) within the California Environmental Protection Agency is hereby announcing the extension of the public comment period on the draft technical support document for the proposed Public Health Goal (PHG) for styrene in drinking water. The draft document is posted on the OEHHA Web site ([www.oehha.ca.gov](http://www.oehha.ca.gov)) and OEHHA is soliciting comments on it from all interested parties. The Office will also hold a public workshop on July 15, 2008 at the Elihu Harris Building, 1515 Clay Street, Oakland, 94612, Room 2, 10 a.m.–12 noon, or until business is concluded. OEHHA follows the requirements set forth in Health and Safety Code Sections 57003(a) and 116365 for conducting the workshop and receiving public input.

All oral and written comments will be considered during the next revision of the draft technical support document for styrene. Comments must be received at the OEHHA address below by 5:00 p.m. on September 15, 2008 to be considered during this document revision period. The PHG technical support documents provide information on the health effects of contaminants in drinking water. The PHG is a level of drinking water contaminant at which adverse health effects are not expected to occur from a lifetime of exposure. The California Safe Drinking Water Act of 1996 (Health and Safety Code Section 116365), amended 1999, requires OEHHA to develop PHGs based exclusively on public health considerations. PHGs published by OEHHA will be considered by the California Department of Health Services in setting drinking water standards (Maximum Contaminant Levels, or MCLs).

If you would like to receive further information on this announcement or have questions, please contact our office at (510) 622–3170 or the address below.

Michael Baes ([mbaes@oehha.ca.gov](mailto:mbaes@oehha.ca.gov))  
Pesticide and Environmental Toxicology Branch  
Office of Environmental Health Hazard Assessment  
California Environmental Protection Agency  
1515 Clay St., 16<sup>th</sup> floor  
Oakland, California, 94612

Attention: PHG Project

**OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

**California Environmental Protection Agency  
Office of Environmental Health  
Hazard Assessment  
Notice to Interested Parties**

**July 4, 2008**

**ANNOUNCEMENT OF SECOND  
PUBLIC COMMENT PERIOD**

**Draft Technical Support Documents on Proposed  
Public Health Goals for Chlorite and  
2,4-Dichlorophenoxyacetic Acid  
in Drinking Water**

The Office of Environmental Health Hazard Assessment (OEHHA) within the California Environmental Protection Agency is announcing the availability of the revised draft technical support documents for proposed Public Health Goals (PHGs) for chlorite, a disinfection byproduct, and 2,4-dichlorophenoxyacetic acid, an herbicide, in drinking water. The draft documents are posted on the OEHHA Web site ([www.oehha.ca.gov](http://www.oehha.ca.gov)). OEHHA is soliciting comments on the draft reports during a 30-day comment period. OEHHA follows the requirements set forth in Health and Safety Code Sections 57003(a) and 116365 for receiving public input.

OEHHA will evaluate all the comments received and revise the document as appropriate. Written comments must be received at the OEHHA address below by 5:00 p.m. on August 4, 2008, to be considered before publication of the final document. The final document will be posted on our Web site along with responses to the major comments received during the public review and scientific comment periods.

The PHG technical support documents provide information on the health effects of contaminants in drinking water. The PHG is a level of drinking water contaminant at which adverse health effects are not expected to occur from a lifetime of exposure. The California Safe Drinking Water Act of 1996 (Health and Safety Code Section 116365) requires OEHHA to de-



velop PHGs based exclusively on public health considerations. PHGs published by OEHHA will be considered by the California Department of Health Services in setting drinking water standards (Maximum Contaminant Levels, or MCLs).

If you would like to receive further information on this announcement or have questions, please contact our office at (510) 622-3170 or the address below.

Michael Baes (mbaes@oehha.ca.gov)  
Pesticide and Environmental Toxicology Branch  
Office of Environmental Health Hazard Assessment  
California Environmental Protection Agency  
1515 Clay St., 16<sup>th</sup> floor  
Oakland, California, 94612

Attention: PHG Project

## OAL REGULATORY DETERMINATIONS

### OFFICE OF ADMINISTRATIVE LAW

### ACCEPTANCE OF PETITION TO REVIEW ALLEGED UNDERGROUND REGULATIONS

(Pursuant to title 1, section 270, of the  
California Code of Regulations)

### DEPARTMENT OF MENTAL HEALTH

#### Agency being challenged:

The Office of Administrative Law has accepted the following petition for consideration. Please send your comments to:

Peggy J. Gibson, Staff Counsel  
Office of Administrative Law  
300 Capitol Mall, Ste. 1250  
Sacramento, CA 95814

A copy of your comment must also be sent to the petitioner and the agency contact person.

Petitioner:

Marc Anthony Lowell Endsley  
Patton State Hospital  
3102 E. Highland Avenue  
Patton, CA 92369

Agency contact:

Stephen Mayberg, Director  
Department of Mental Health  
1600 9<sup>th</sup> Street  
Sacramento, CA 95814

Please note the following timelines:

Publication of Petition in Notice Register: July 4, 2008

Deadline for Public Comment: August 4, 2008

Deadline for Agency Response: August 18, 2008

Deadline for Petitioner Rebuttal: No later than 15 days after receipt of the agency's response

Deadline for OAL Decision: November 3, 2008

The attachments are not being printed for practical reasons or space considerations. However, if you would like to view the attachments please contact Margaret Molina at (916) 324-6044 or mmolina@oal.ca.gov.

### PETITION TO THE OFFICE OF ADMINISTRATIVE LAW Optional Petition Submission Form

RE: Alleged Underground Regulation

FROM: Marc Anthony Lowell Endsley (Petitioner)

DATE: Thursday, May 15, 2008

#### 1. Petitioner's Identifying Information:

Marc Anthony Lowell Endsley  
Patton State Hospital  
3102 E. Highland Ave.  
Patton, CA 92369  
(909) 425-6074

#### 2. State agency or department being challenged:

California Department of Mental Health

#### 3. Description of purported underground regulation and specific provision (written copy attached):

Patton State Hospital regulations prohibit patients from receiving packages (containing otherwise allowed items) if sent from the patients' family or if handled by the patients' family in any way.

- Patton State Hospital Administrative Directive #15.16, page 1, specifically defines vendor as "The company that an item has been purchased from (not a mailing/shipping company). A vendor cannot be a family member and the item cannot be handled or touched by the purchaser, only the vendor (See suggested vendor list — Attachment B)".

- Administrative Directive #15.16, page 3, #12 states, "All items sent to an individual must be received from an approved source (vendor, family/friend, the Canteen or another Department of Mental Health State Hospital) as designated in Attachment A".

- Administrative Directive #15.16, ATTACHMENT A, under the heading of SOURCE specifically identifies that most allowable property cannot be received from anyone who is not a vendor or the contracted Canteen service.

This is in contrast to California Code of Regulations Title 9, Division 1, Chapter 4.5, §884(b)(7) which states, “A right to receive packages. Designated facility employees shall open and inspect all incoming and outgoing packages addressed to and from patients for contraband. Limitations on the size, weight and volume, and frequency/number of packages allowed shall be specified by formal facility policy”.

4. Actions demonstrating that the agency has issued, used, enforced, or attempted to enforce the regulation:

Patton State Hospital, pursuant to the above underground regulation, does not allow patients to receive most allowable items from patients’ families or anyone else who is not a “vendor”. Pursuant to this policy, patients are ordered to return otherwise allowed property sent to them from anyone who is not a vendor, or Patton will destroy/dispose of said property.

5. State the legal basis that the guideline is a regulation AND that no exemption is applicable:

This policy is a rule of general application and is not supported by California Code of Regulations, Title 9, Division 1, Chapter 4.5, §884(b)(7), which sets out the legal operating guidelines of such agencies. This regulation does not meet the criteria of an exemption in that it does not meet the express statutory exemptions found in the APA.

6. Information demonstrating an issue of considerable public importance:

This regulation affects the substantial rights of over 1500 patients in Patton State Hospital. The right to receive packages from family is a fundamental element of a person’s liberty. See ENGELMANN v. STATE BOARD OF EDUCATION, (1991) 2 Cal.App. 4<sup>th</sup> 47, 3 Cal.Rptr. 2d 264; FAULKNER v. CALIFORNIA TOLL BRIDGE AUTHORITY, (1953) 40 Cal.2d 317; STONEHAM v. RUSHEN (STONEHAM I), (1982) 137 Cal.App.3d 729; UNION OF AMERICAN PHYSICIANS AND DENTISTS v. KIZER, (1990) 223 Cal.App.3d 490, 272 Cal.Rptr. 886; WINZLER & KELLY v. DEPARTMENT OF INDUSTRIAL RELATIONS, (1981) 121 Cal.App.3d 120, 174 Cal.Rptr. 744.

7. Additional relevant information:

The California Department of Mental Health is operating under a federal consent judgment lodged U.S. District Court, CV-06-2667 GPS(EX) (“CONSENT JUDGMENT”). (This document is not included due to its voluminousness and that it is a matter of public record and freely available). Pursuant to this CONSENT JUDGMENT, each state hospital is required to respect patients’ liberty interests (page 8, lines 9–11). Also pursuant to this CONSENT JUDGMENT (page 38), each state hospital shall establish a Forensic Review Panel (“FRP”) to review facility practices and procedures and ensure that individuals receive timely and adequate assessments to evaluate changes in their risk factors that may warrant modifications in their level of restriction. To my knowledge, Patton has not established a FRP nor have they assessed any patient’s risk factors that may warrant modifications of their level of restrictions.

8. I certify that I have submitted a copy of this petition and all attachments to the state agency in question:

Stephen Mayberg, Director  
California Department of Mental Health  
1600 9<sup>th</sup> Street  
Sacramento, CA 95814  
(916) 263-7830

9. I certify that all of the above information is true and correct to the best of my knowledge.

Date: 5/15/2008

/s/  
Signature

## **OFFICE OF ADMINISTRATIVE LAW**

### **SUSPENSION OF ACTION REGARDING UNDERGROUND REGULATIONS**

#### **(Pursuant to Title 1, section 280, of the California Code of Regulations)**

On April 21, 2008, The Office of Administrative Law (OAL) received a petition challenging a press release issued on April 18, 2008 titled, “DFG Announces Changes to Recreational Groundfish 2008 Fishing Regulations” as an alleged underground regulation.

On June 22, 2008, Department of Fish and Game certified to OAL that the April 18, 2008 press release had been rescinded; therefore, pursuant to Title 1, section 280 of the California Code of Regulations, OAL must suspend all action on this petition.

DEPARTMENT OF FISH AND GAME

Re: CTU2008-0422-02  
 Petitioner: Jim Martin  
 Agency: Department of Fish and Game

On June 23, 2008, the Office of Administrative Law (OAL) received the following email from John W. McCamman, Chief Deputy Director of the Department of Fish and Game:

The Department of Fish and Game hereby submits to the Office of Administrative Law a certification pursuant to Section 280 of Title 1 of the California Code of Regulations, in response to the petition submitted by Jim Martin, Recreational Fishing Alliance, dated April 21, 2008 (Petition). The Petition appears to allege that the Department promulgated an underground regulation through the issuance of a press release on April 18, 2008. The press release in question announced that recreational groundfish regulations were proposed to be changed on or about May 1, 2008. The Department did, subsequently, adopt emergency recreational groundfish regulations that went into effect on or about May 9, 2008 (OAL file number 2008-0505-02E). The press release dated April 18, 2008, was not intended to have regulatory effect. The Department will not issue, use, enforce or attempt to enforce that press release as a regulation.

This certification is being served on the petitioner by copy of this email.

John W. McCamman  
 Chief Deputy Director  
 California Department of Fish and Game  
 1416 Ninth Street  
 Sacramento, CA 95814  
 (916) 653-7667

OAL accepts this email as a certification pursuant to California Code of Regulations, title 1, section 280. Accordingly, OAL suspends all action in connection with the above referenced petition.

PETITION TO THE OFFICE OF  
 ADMINISTRATIVE LAW  
 Submitted by Jim Martin, Recreational  
 Fishing Alliance

RE: Alleged Underground Regulation

FROM: Jim Martin, Recreational Fishing Alliance  
 (Petitioner)

DATE: April 21, 2008

1. Petitioner's Identifying Information:

Your name: **Jim Martin**  
 Your address: **P.O. Box 2420, Fort Bragg, CA 95437**  
 Your telephone number (if you have one): **(707) 357-3422**  
 Your e-mail (if you have one): **flatland@mcn.org**

2. State agency or department being challenged:

**Department of Fish & Game (DFG)**

3. Provide a complete description of the purported underground regulation. Attach a written copy of it. If the purported underground regulation is found in an agency manual, identify the specific provision of the manual alleged to comprise the underground regulation. Please be as precise as possible.

**See attached press release from DFG**

4. Provide a description of the agency actions you believe demonstrate that it has issued, used, enforced, or attempted to enforce the purported underground regulation.

**See attached press release from DFG. This announcement leads the public to believe that the regulations are already in effect. We understand that the DFG will be submitting the proposed emergency regulations to the OAL soon, and we request a full public comment period before OAL approves any regulations connected with recreational fishing for groundfish in state waters.**

5. State the legal basis for believing that the guideline, criterion, bulletin, provision in a manual, instruction, order, standard of general application, or other rule or procedure is a regulation as defined in Section 11342.600 of the Government Code AND that no express statutory exemption to the requirements of the APA is applicable.

**The DFG is proposing an emergency regulation to "reduce bycatch of yelloweye rockfish" in California state waters by imposing area closures, defined by latitude-longitude points. These regulations would close all recreational groundfishing opportunities within the areas defined. DFG states that "harvest guidelines" are mandated "by law" when, in fact, they are "guidelines." The proposed emergency regulations could have been implemented through a normal rulemaking process since the data collection was completed in October of 2006. The California Fish & Game Commission sets regulations for sportfishing in state waters. The proposed regulations would prohibit take of all groundfish in 5 marine areas on the north coast.**

**DFG has been using press releases in the place of rulemaking at an increased rate, leaving the public out of the decisionmaking process. To date, the Department has held no public hearings on this issue.**

We believe there is no emergency, since existing regulations for recreational groundfisheries fully protect California's yelloweye rockfish resource.

6. Provide information demonstrating that the petition raises an issue of considerable public importance requiring prompt resolution.

The proposed regulations will effectively shut down the harbor at Shelter Cove and have severe economic impacts on the ports at Fort Bragg, Eureka, and Crescent City. These regulations can have no reasonable effect on their stated purpose. Existing regulations protect yelloweye rockfish. Current regulations prohibit retention of this species and disallow all commercial and recreational fishing in over 90% of the species habitat range. The existing closure area protecting overfished rockfish species exceeds 11,000 square miles. Yelloweye rockfish occur most commonly in depths exceeding 300 feet and recreational fishing in these depths has been closed since 2003.

Yelloweye rockfish are residential, meaning they do not migrate much from their home rocks. Therefore fishing in state waters, in shallow depths, can have no effect on the total spawning biomass in federal waters.

The proposed regulations will have a negative effect on incidental bycatch of yelloweye because the areas defined in the regulation appear to be located where the highest recreational fishing activity occurs. Thus, the fleet will be pushed out to more pristine areas, increasing the incidental take of yelloweye.

7. (Optional) Please attach any additional relevant information that will assist OAL in evaluating your petition.

Catch limits on yelloweye rockfish and other overfished species are determined by stock assessments conducted by the Pacific Fishery Management Council. The most recent stock assessment for this species is, by its own admission, faulty:

*As in the previous assessments, the sparseness of the size and age composition data and the lack of a relevant fishery-independent survey has limited the model's ability to properly assess the status of the resource. This is especially apparent in the Washington model where the wholesale lack of data resulted in our inability to obtain a converged model without placing significant restraints and assumptions within the model relative to the area-specific models for California and Oregon. Further, due to catch restrictions since 2002, catch-per-unit-effort (CPUE) data no longer reflect the real changes in population abundance, and discard estimates are highly uncertain.*

*The landings data are basically derived from total landings of unclassified rockfish times an estimated fraction that are yelloweye. In recent years, actual samples are available in many areas, but because yelloweye are rare in the overall catch and that species composition estimates derived from mixed rockfish categories is limited, substantial substitution for missing cells is required. In earlier years (prior to 1983), estimates of fraction yelloweye had to be borrowed from remote years and areas. The consequence of these estimation steps is that the catch is known only with considerable uncertainty and the current version of SS2 does not allow for uncertainty measurements of landings. This makes it nearly impossible to evaluate the true uncertainty of model results. Internal estimates of standard error on depletion estimates were on the order of 2–2.5% and are likely to be serious underestimates of uncertainty.*

From:

*Status of yelloweye rockfish (Sebastes ruberrimus) off the U.S. West Coast in 2006 By Farron R. Wallace, Tien-Shui Tsou, Thomas Jagielo, and Yuk Wing Cheng*

[http://www.pcouncil.org/groundfish/gfsafe0406/Yeye06\\_entire\\_final.pdf](http://www.pcouncil.org/groundfish/gfsafe0406/Yeye06_entire_final.pdf)

To impose emergency regulations that will have a severely negative impact on coastal communities, based on poor data, without a rulemaking process is an injustice to the citizens of California.

8. Certifications:

I certify that I have submitted a copy of this petition and all attachments to the state agency which has issued, used, enforced, or attempted to enforce the purported underground regulation:

Name of person in agency to whom petition was sent:

**Donald Koch, Director**

Agency:

**California Department of Fish and Game**

Address:

**1416 Ninth St, 12th Floor  
Sacramento CA 95814**

Telephone number:

**(916) 653-7667**

I certify that all of the above information is true and correct to the best of my knowledge.

/s/  
Signature of Petitioner

April 21, 2008  
Date



**Attachment :**

California Department of Fish and Game

**NEWS RELEASE FOR IMMEDIATE RELEASE**

**Contacts:**

John Budrick, Associate Marine Fisheries Biologist  
(650) 413-1501

Carrie Wilson, DFG Office of Communications (831)  
649-7191

**DFG Announces Changes to Recreational Groundfish 2008 Fishing Regulations  
Informational Public Meeting Scheduled April 26 in Ukiah**

Recreational fishing regulations are proposed to change on or about May 1, 2008, for those anglers fishing for groundfish in northern California. The California Department of Fish and Game (DFG) announced that these regulation changes will prohibit fishing in waters greater than 20 fathoms (120 feet) in depth and will close specific areas to fishing for rockfish, lingcod, greenrings, cabezon and other groundfish. The primary goal of the new regulations is to reduce the bycatch of yelloweye and canary rockfish.

California continues to be concerned about protecting overfished species, said Marija Vojkovich, DFG marine region manager. In order to help assure the federal harvest guidelines are not exceeded, anglers are currently not allowed to keep any yelloweye or canary rockfish they catch off California coast. This shallower depth restriction coupled with the closed areas will help to prevent incidental take.

DFG approved the in-season regulation changes to conform to similar actions taken by the Pacific Fishery Management Council (PFMC) on March 14, 2008 for federal waters. The regulation changes will not affect waters south of Pigeon Point in San Mateo County.

The DFG has scheduled an informational public meeting on Saturday, April 26 from 2 p.m. to 5 p.m. at the Ukiah Civic Center Council Chambers, 300 Seminary Ave., in Ukiah. The DFG will be available to discuss additional details concerning the need for the in-season action, address ways the public can avoid yelloweye and canary rockfish, and answer questions.

Yelloweye and canary rockfish are federally designated overfished species which by law must be protected until the stocks are rebuilt to sustainable levels. Population estimates show that yelloweye rockfish stocks are at less than 18 percent of their historical levels and may require more than 50 years to rebuild.

Each year, the PFMC sets a harvest guideline, or the amount of bycatch allowed during the stock rebuilding process for overfished species. By law, the number of yelloweye or canary rockfish caught off California may not exceed the harvest guidelines. Both harvest guide-

lines were exceeded in 2007, despite an early season closure. Bycatch occurs when anglers unintentionally catch prohibited yelloweye or canary rockfish while fishing for other groundfish, sometimes causing injury or death.

In 2007, the groundfish season closed early in northern California to prevent exceeding the harvest guidelines. For 2008, in-season modifications to the allowed fishing depth, as well as area closures in northern California, should prevent exceeding the harvest guidelines and keep the fishery open for the entire season.

Area closures will include five Yelloweye Rockfish Conservation Areas (YRCAs) covering 4 to 7 miles of coastline and extending 3 miles out to sea. YRCAs will be closed for take or possession of groundfish, including rockfish, cabezon, greenlings and lingcod. Shore-based anglers and spearfishing divers will be exempt from YRCA restrictions.

Beginning May 1, 2008 (or as close to that date as possible), the season, area, and depth restrictions (listed by management area) for boat-based anglers are as follows:

**Northern Management Area — Oregon border to 40° 10' North latitude (near Cape Mendocino, Mendocino County):**

Rockfish, cabezon, greenlings (RCG Complex) other federal groundfish (other than lingcod): Open to boat-based anglers from May 1 through Dec. 31 in waters from 0 to 120 feet (0 to 20 fathoms).

Lingcod: Open to boat-based anglers from May 1 through Nov. 30 in waters from 0 to 120 feet (0 to 20 fathoms).

YRCAs in the Northern Management Area are as follows:

**Point St. George YRCA (Del Norte County)**

Defined as the area within state waters between a line extending due West through the NOAA buoy off of Point St. George at 41° 51 00 North latitude and a line extending due West from Castle Rock at 41° 45 40 North latitude; from shore to the state/federal water boundary.

**Punta Gorda YRCA (Humboldt County)**

Defined as the area within state waters between a line extending due West from the Punta Gorda Lighthouse at 40° 15 15 North latitude and a line extending due West from Reynolds Creek mouth at 40° 12 00 North latitude; from shore to the state/federal water boundary,

**North-Central Management Area — 40°10' North latitude (near Cape Mendocino, Mendocino County), to 37° 11. North latitude (near Pigeon Pt. San Mateo County)**

Rockfish, cabezon, greenlings (RCG Complex), and other federal groundfish (other than lingcod): Open to boat-based anglers from June 1 through Nov. 30 in waters from 0 to 120 feet (0 to 20 fathoms).

Lingcod: Open to boat-based anglers from June 1 through Nov. 30 in waters from 0 to 120 feet (0 to 20 fathoms).

YRCAs in the North-Central Management Area are as follows:

**Point Delgada YRCA (Humboldt County)**

Defined as the area within state waters south of a line extending due West from Yellow Bluff at 40° 02 35 North latitude and West of a line extending due South from Dead Man's Gulch at 124° 03 26 West longitude, to the state/federal water boundary.

**Bells Point YRCA (Mendocino County)**

The area within state waters between a line extending due West from Switzer Rock 39° 38 50 North latitude and a line extending due West from Kibesillah Rock at 39° 34 08 North latitude; from shore to the state/federal water boundary.

**Point Cabrillo YRCA (Mendocino County)**

The area within state waters between a line extending due West from Hare Creek 39° 25 00 North latitude and a line extending due West from Point Cabrillo 39° 21 00 North latitude; from shore to the state/federal water boundary.

Maps and coordinates for each YRCA will be available at the meeting and online at [www.dfg.ca.gov/marine/yrca.asp](http://www.dfg.ca.gov/marine/yrca.asp).

For more information regarding recreational groundfish regulations and to stay informed of in-season regulation changes, call the groundfish hotline (831) 649-2801, or visit the Marine Region Web site at [www.dfg.ca.gov/marine](http://www.dfg.ca.gov/marine). For more information about the action taken by the PPMC, visit [www.pcouncil.org](http://www.pcouncil.org).

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Note: This e-mail account is used to distribute information to the public. Do not reply to this e-mail. Direct questions or comments regarding the information contained in this e-mail to the Department staff listed as points of contact for this subject.

**SUMMARY OF REGULATORY ACTIONS**

**REGULATIONS FILED WITH SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2008-0515-03

BOARD OF EDUCATION

Uniform Complaint Procedures

The State Board of Education (Board) amends Title 5, California Code of Regulations, section 4600(l) to make the definition of "good repair" consistent with the change made by AB 607 (Chapter 704, Statutes of 2006).

Title 5

California Code of Regulations

AMEND: 4600(l)

Filed 06/19/2008

Agency Contact: Debra Strain (916) 319-0860

File# 2008-0514-06

BOARD OF PAROLE HEARINGS

Implementation of Penal Code Section 3000.1

Before Penal Code section 3000.1(d) was enacted, a murderer who violated the terms of parole, and had his or her parole revoked, would generally be entitled to release back into society after having served the time that was assessed for the parole revocation. Penal Code section 3000.1(d) created a post-revocation hearing with the sole purpose of determining whether the circumstances and gravity of a murderer's parole revocation offense (i.e. drugs, weapons possession or access thereto, etc. . .) are such that public safety warrants a longer period of incarceration than what the individuals received for the underlying revocation offense. This filing is a certificate of compliance for an emergency regulatory action implementing Penal Code section 3000.1 and provides that the hearing shall be conducted by a two person panel comprised of one commissioner and one deputy commissioner.

Title 15

California Code of Regulations

ADOPT: 2275

Filed 06/23/2008

Effective 06/23/2008

Agency Contact:

Devaney Sullivan

(916) 322-6815

File# 2008-0512-01

CALIFORNIA GAMBLING CONTROL COMMISSION

Two-Year Licensing of Gambling Establishments and Key Employees

In this regulatory action, the California Gambling Control Commission makes numerous changes to its regulations pertaining to state gambling licenses, gambling establishment key employee licenses, and the licensing of other specified persons and entities associated with gambling establishments. Among the changes are provisions for two-year licensing. The ru-

lemaking includes substantial changes to the application forms used in the licensing process, including new, revised and repealed forms. Additional changes in the rulemaking include new provisions regarding the "table fee" and revised provisions relating to requests for the operation of additional gambling establishment tables.

Title 4  
California Code of Regulations  
ADOPT: 12335, 12340, 12357 AMEND: 12342,  
12343, 12344, 12345, 12358, 12359  
Filed 06/24/2008  
Effective 06/24/2008  
Agency Contact: Herb Bolz (916) 263-0700

File# 2008-0603-02  
CALIFORNIA INTEGRATED WASTE  
MANAGEMENT BOARD  
Electronic Waste Recycling — Recycling and Recovery Payment Rates

This file and print submission from CIWMB makes changes to the (1) Standard Statewide Recovery Payment Rate; and the (2) Standard Statewide Combined Recycling and Recovery Payment Rate which are part of the procedures for disbursing payments to approved collectors and recyclers to help cover their costs of electronic waste recovery and recycling. These rates were first established (at \$0.20 and \$0.48 per pound respectively) via emergency regulation in 2004 (with a two year effective period per Public Resources Code section 42475.2) and later certified in 2006. This is the first time the rates are being changed and CIWMB is claiming they are exempt pursuant to Government Code section 11340.9(g)'s "rate, price, or tariff" exemption in that they set universal rates that will be paid by the state in relation to the number of pounds of covered electronic waste that are collected or recycled by approved participants in the state's electronic waste recycling payment system as required by public Resources Code sections 42477 and 42478. CIWMB seeks to change (1) the Standard Statewide Recovery Payment Rate from \$0.20 per pound to \$0.16 per pound; and (2) the Standard Statewide Combined Recovery and Recycling Payment Rate to \$0.43 for July 1 through September 15, 2008 and to \$0.39 per pound beginning September 16, 2008.

Title 14  
California Code of Regulations  
AMEND: 18660.23, 18660.24, 18660.25,  
18660.33, 18660.34  
Filed 06/23/2008  
Effective 07/01/2008  
Agency Contact: Harilee Branch (916) 341-6056

File# 2008-0522-01  
COMMISSION ON TEACHER CREDENTIALING  
Short-Term Staff Permit

This rulemaking amends 5 Cal. Code Regs. section 80021 to specify the basic skills required to obtain a Short-Term Staff Permit, clarify the date of the end of the school year for purposes of teachers holding a Short-Term Staff Permit, and lists examples of circumstances when school agencies may use teachers with Short-Term Staff Permits.

Title 5  
California Code of Regulations  
AMEND: 80021  
Filed 06/24/2008  
Effective 07/24/2008  
Agency Contact:  
Terri H. Fesperman (916) 323-5777

File# 2008-0528-05  
DEPARTMENT OF FOOD AND AGRICULTURE  
South American Spongeplant Erad. Area

This filing is a certificate of compliance for an emergency regulatory action adding Fresno and Madera counties to Shasta County as eradication areas for South American spongeplant.

Title 3  
California Code of Regulations  
AMEND: 3963  
Filed 06/24/2008  
Agency Contact: Stephen Brown (916) 654-1017

File# 2008-0603-06  
DEPARTMENT OF FOOD AND AGRICULTURE  
Plants That Are Pests

Section 4500 of title 3 of the California Code of Regulations designates those weed species that are noxious weed species. Noxious weed species pose a hazard to agriculture and some native plant species in California. Section 3060.2 of title 3 establishes the standards of pest cleanliness for nursery stock produced, held, or offered for sale. The Department proposes to adopt section 3060.3 to establish that noxious weeds do not meet the requirements of section 3060.2 and cannot be produced, held, or offered for sale as nursery stock.

Title 3  
California Code of Regulations  
AMEND: 3060.3  
Filed 06/24/2008  
Effective 07/24/2008  
Agency Contact: Stephen Brown (916) 654-1017

File# 2008-0620-01  
DEPARTMENT OF FOOD AND AGRICULTURE  
Mediterranean Fruit Fly Eradication Area

This emergency regulatory action establishes the entire county of Tulare as an eradication area for the Mediterranean fruit fly ("Ceratitis capitata").

Title 3  
California Code of Regulations  
AMEND: 3591.5(a)  
Filed 06/23/2008  
Effective 06/23/2008  
Agency Contact: Stephen Brown (916) 654-1017

File# 2008-0515-04  
DEPARTMENT OF INSURANCE  
Disability Income Insurance Benefit Reduction Regulations

This action adopts regulations identifying and limiting certain disability income insurance policy provisions and practices that have been used to reduce the amount paid to a disabled worker under a policy based upon receipt of other benefits, and amends the guidelines that require mention of offsets whenever the amount of benefits is advertised to further require examples of how benefits are commonly reduced.

Title 10  
California Code of Regulations  
ADOPT: 2232.45.1, 2232.45.2, 2232.45.3, 2232.45.4, 2232.45.5 AMEND: 2536.2  
Filed 06/24/2008  
Effective 08/23/2008  
Agency Contact: Nancy Hom (415) 538-4144

File# 2008-0516-01  
FISH AND GAME COMMISSION  
Mammal Hunting Regulations for 2008/2009

This regulatory action changes the number of deer, nelson big horn sheep, pronghorn antelope and elk hunting tags for all existing zones. It also includes some slight modifications to season dates for some zones, adds three counties to one zone and changes the name Junior Hunt to Apprentice Hunt.

Title 14  
California Code of Regulations  
AMEND: 360, 361, 362, 363, 364, 551, 708, 712  
Filed 06/20/2008  
Effective 06/20/2008  
Agency Contact: Jon Snellstrom (916) 653-4899

File# 2008-0519-03  
FISH AND GAME COMMISSION  
Ammunition Certification

AB 821 (Added by Stats. 2007, c. 570, § 3), mandated that nonlead centerfire rifle and pistol ammunition be required when taking big game with a rifle or pistol within the Department of Fish and Game's deer hunting zone A South, excluding Santa Cruz, Alameda, Contra Costa, San Mateo and San Joaquin Counties and other areas. AB 821 also mandated that the Fish and Game Commission adopt regulations to establish a public process to certify centerfire rifle and pistol ammunition as nonlead ammunition and establish a definition of nonlead ammunition. Additionally, AB 821 requires the commission to establish and update a list of certified centerfire rifle and pistol ammunition. New section 355 accomplishes the mandates of AB 821.

Title 14  
California Code of Regulations  
ADOPT: 355  
Filed 06/18/2008  
Effective 07/01/2008  
Agency Contact: Sheri Tiemann (916) 654-9872

File# 2008-0514-04  
FRANCHISE TAX BOARD  
Absence of Regulations

This change without regulatory effect revises 18 CCR 19503 to conform the regulation to various statutory changes.

Title 18  
California Code of Regulations  
AMEND: 19503  
Filed 06/23/2008  
Agency Contact: Colleen Berwick (916) 845-3306

File# 2008-0523-02  
OFFICE OF ENVIRONMENTAL HEALTH  
HAZARD ASSESSMENT  
Specific Regulatory Levels: Chemicals Causing Reproductive Toxicity — MADL for DBP

The Safe Drinking Water and Toxic Enforcement Act of 1986 (Act) prohibits a person in the course of doing business from knowingly and intentionally exposing any individual to a chemical that has been listed as known to the State to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual. For chemicals known to the State to cause reproductive toxicity, an exemption from the warning requirement is provided by the Act when a person in the course of doing business is able to demonstrate that an exposure for which the person is responsible will have no reproductive effect, assuming exposure at 1,000 times the level in question. The proposed regu-



latory action sets a maximum allowable dose level for Di(n-butyl)phthalate (DBP) at 8.7 micrograms per day.

Title 22  
California Code of Regulations  
AMEND: 12805  
Filed 06/23/2008  
Effective 07/23/2008  
Agency Contact: Susan Luong (916) 327-3015

**CCR CHANGES FILED  
WITH THE SECRETARY OF STATE  
WITHIN JANUARY 23, 2008 TO  
JUNE 25, 2008**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 1**

04/24/08 AMEND: Appendix A  
02/25/08 ADOPT: 48, 50, 52 AMEND: 55  
01/29/08 AMEND: 1, 6, 90, and Appendix A (Std. Form 400)

**Title 2**

06/17/08 ADOPT: div. 8, ch. 112, sec. 59570  
06/11/08 AMEND: 18360, 18361  
06/11/08 ADOPT: 18421.7 AMEND: 18401  
06/11/08 ADOPT: 18944.2 REPEAL: 18944.2  
05/21/08 ADOPT: 59580  
05/14/08 ADOPT: 18413  
05/13/08 ADOPT: 59620  
05/06/08 AMEND: 43000, 43001, 43002, 43003, 43004, 43005, 43006, 43007, 43008, 43009  
04/30/08 AMEND: 1859.2, 1859.61, 1859.81, 1859.82, 1859.83, 1859.202, 1866, Form SAB 50-04 (Rev. 01/08)  
04/29/08 ADOPT: 1859.190, 1859.191, 1859.192, 1859.193, 1859.193.1, 1859.194, 1859.195, 1859.196, 1859.197, 1859.198, 1859.199 AMEND: 1859.2, 1859.51, 1859.81, Form SAB 50-04 (Revised 01/08), Form SAB 50-05 (Revised 01/08), Form SAB 50-10 (Revised 01/08)  
04/24/08 ADOPT: 1183.081, 1183.131, 1183.30, 1183.31, 1183.32 AMEND: 1181.1, 1181.2, 1181.3, 1183, 1183.01, 1183.04,

1183.08, 1183.11, 1183.13, 1183.14, 1183.3, 1188.3

04/10/08 AMEND: 1866, 1866.4.3, 1866.13, Form SAB 40-22 (Rev. 10/07)  
04/09/08 AMEND: 18997  
03/28/08 ADOPT: 59630  
03/24/08 AMEND: 18735  
03/19/08 AMEND: 55300  
03/19/08 AMEND: 549.90  
03/19/08 AMEND: 18200  
03/03/08 AMEND: 1859.76, 1859.83, 1859.104.3  
02/25/08 AMEND: 549.80  
02/25/08 AMEND: 714

**Title 3**

06/24/08 AMEND: 3963  
06/24/08 AMEND: 3060.3  
06/23/08 AMEND: 3591.5(a)  
06/17/08 AMEND: 2751  
06/16/08 AMEND: 3434(b)  
06/11/08 AMEND: 3434(b)  
06/09/08 AMEND: 3700  
06/04/08 AMEND: 3434(b)  
05/23/08 AMEND: 3434(b)  
05/23/08 AMEND: 1438.7, 1438.17  
05/07/08 AMEND: 3434(b)  
05/05/08 AMEND: 3406(b)  
05/02/08 AMEND: 3417(b)  
05/02/08 AMEND: 3434  
04/30/08 AMEND: 3591.20  
04/23/08 AMEND: 6550  
04/21/08 AMEND: 3700  
04/18/08 AMEND: 3434(b)  
04/16/08 AMEND: 3434(b) & (c)  
04/15/08 AMEND: 3433(b)  
04/08/08 AMEND: 3434(b)  
04/02/08 AMEND: 3433(b)  
04/02/08 AMEND: 3433(b)  
04/01/08 ADOPT: 821, 821.1, 821.2, 821.3, 821.4, 821.5 REPEAL: 784, 784.1, 784.2, 800, 800.1, 801, 802  
03/26/08 AMEND: 3434(b)  
03/21/08 AMEND: 3434(b)  
03/19/08 AMEND: 6620  
03/17/08 AMEND: 3434(b)  
03/17/08 AMEND: 3406(b)  
03/17/08 AMEND: 3700(c)  
03/13/08 AMEND: 6860  
03/12/08 AMEND: 3434(b)  
03/12/08 AMEND: 3406(b)  
03/05/08 AMEND: 3875  
03/04/08 AMEND: 3867  
03/03/08 AMEND: 3591.20  
02/22/08 AMEND: 3434(b)  
02/21/08 AMEND: 6393

02/11/08	AMEND: 3434(b)		15475, 15476, 15477, 15478, 15479,
02/08/08	AMEND: 3591.20		15479.5, 15480, 15481, 15483, 15484,
02/04/08	AMEND: 3434(b)		15485, 15486, 15487, 15488, 15489,
01/29/08	AMEND: 3700(c)		15490, 15493
01/28/08	AMEND: 3433(b)	05/05/08	ADOPT: 11315.5 and 11315.6 AMEND:
01/28/08	AMEND: 4500		11315
01/25/08	ADOPT: 6445, 6445.5, 6448, 6448.1,	05/01/08	AMEND: 80440, 80443
	6449, 6449.1, 6450, 6450.1, 6450.2,	04/21/08	ADOPT: 18134
	6451, 6451.1, 6452, 6452.1, 6452.2,	04/21/08	ADOPT: 18134
	6452.3(a), 6452.3(b), 6452.3(c),	03/03/08	ADOPT: 9510.5, 9512, 9513, 9514, 9525
	6452.3(d), 6452.3(e), 6452.3(f), 6452.4,		AMEND: 9510, 9511, 9515, 9516, 9517,
	6536(a), 6536(b)(1-3), 6536(b)(4)		9518, 9519, 9521, 9522, 9523, 9524,
	AMEND: 6000, 6400, 6450, 6450.1,		9527, 9528, 9529, 9530 REPEAL:
	6450.2, 6450.3, 6452, 6453, 6502, 6624,		9517.1, 9520
	6626, 6784	02/28/08	ADOPT: 11969.10, 11969.11 AMEND:
01/24/08	AMEND: 1391, 1391.1		11969.1, 11969.2, 11969.3, 11969.4,
			11969.6, 11969.7, 11969.8, 11969.9
<b>Title 4</b>		02/25/08	AMEND: 41301
06/24/08	ADOPT: 12335, 12340, 12357 AMEND:	02/22/08	AMEND: 3051.16, 3065
	12342, 12343, 12344, 12345, 12358,		
	12359	<b>Title 7</b>	
05/23/08	ADOPT: 1843.3 AMEND: 1843.2	06/10/08	ADOPT: 236.1
05/01/08	AMEND: 1844	<b>Title 8</b>	
04/08/08	AMEND: 1467	06/06/08	AMEND: 1710(k)(2)
03/24/08	AMEND: 10177, 10178, 10181, 10182,	05/19/08	AMEND: 1529, 5208, 8358
	10187, 10188, 10189	05/19/08	AMEND: 1710
02/29/08	ADOPT: 8102, 8102.1, 8102.2, 8102.3,	05/19/08	AMEND: 797, 1604.10, 1601.21, 1662
	8102.4, 8102.5, 8102.6, 8102.7, 8102.8,	05/05/08	ADOPT: 2340.2, 2340.5, 2340.8,
	8102.9, 8102.10, 8102.11, 8102.12,		2340.10, 2340.12, 2340.14; Article 6,
	8102.13, 8102.14, 8102.15 AMEND:		Sections 2360.1 through 2360.5; Sections
	8090, 8091, 8092, 8093, 8094, 8095,		2375.7, 2375.25, 2380.1, 2390.10,
	8096, 8097, 8098, 8099, 8100, 8101		2390.20, Article 12, Sections 2400.1,
<b>Title 5</b>			2400.2; Sections 2418.2, 2418.3, 2418.4,
06/24/08	AMEND: 80021		2418.5, 2418.6, 2420.4, 2420.5, 2420.6,
06/19/08	AMEND: 4600(l)		2420.7, 2473.1, 2473.2, 2480.5, 2480.9,
06/13/08	ADOPT: 55185, 57017 AMEND: 55180,		2484.5, 2484.6; Article 48.1, Sections
	57001.7, 58003.4, 58770, 58771, 58774		2485.1, 2485.2; Sections 2505.2, 2510.8,
06/10/08	AMEND: 30910, 30911, 30912, 30913,		2522.20, 2530.120, 2530.121; Article
	30914, 30916		58.1, Section 2535.1; Sections 2540.11,
06/10/08	AMEND: 30920, 30921, 30922, 30923,		2540.11 Figure S-1, 2560.3; Article 74.1,
	30924, 30925, 30927		Sections 2562.1 through 2562.7; Article
06/09/08	ADOPT: 19828.3, 19837.2 AMEND:		77.1, Sections 2566.1 through 2566.3;
	19816, 19816.1, 19828.2, 19837.1,		Article 77.2, Sections 2567.1 through
	19846		2567.3; Sections 2569.5, 2571.9,
05/28/08	ADOPT: 18085.5, 18086.1 AMEND:		2571.30; Article 83, Sections 2583.1
	18086, 18087, 18088, 18091, 18101,		through 2583.8; Article 84, Sections
	18102, 18104		2584.1 through 2584.8; Article 85,
05/21/08	ADOPT: 6105 AMEND: 6100, 6104		Sections 2585.1 through 2585.3; Article
05/13/08	AMEND: 15440, 15441, 15442, 15443,		86, Sections 2586.1 through 2586.4;
	15444, 15445, 15446, 15447, 15448,		Article 87, Sections 2587.1 through
	15449, 15450, 15451, 15452, 15453,		2587.5; Article 88, Sections 2588.1
	15454, 15455, 15456, 15457, 15458,		through 2588.3; Article 89, Sections
	15459, 15460, 15461, 15462, 15463,		2589.1 and 2589.2. AMEND: 2300,
	15464, 15467, 15468, 15469, 15471,		2305.2, 2305.4, 2340.9, 2340.11,
	15471.1, 15471.2, 15472, 15473, 15474,		2340.13, 2340.16, Table 2340.16,

	2340.17, 2340.18, 2340.21, 2340.22; Article 5, Section 2350.2; Sections 2375.1, 2375.18, Table 2375.18, Sections 2375.19, 2390.1, 2390.24, 2390.41, 2390.81, 2395.3, 2395.5, 2395.6, 2395.23, 2395.25, 2395.32, 2395.42, 2395.44, 2395.45, 2395.57, 2395.58, 2405.1, 2405.2; Article 16, Sections 2420.3; Article 45; Sections 2480.6, 2480.7, 2484.24, 2500.7, 2500.8, 2500.9, 2500.10, 2500.11, 2500.23, 2505.10, 2505.11, 2510.4, 2510.5, 2510.6, 2510.7, 2510.56, 2510.58, 2522.2, 2530.4, 2530.102, 2530.103, 2530.104, 2530.107, 2530.112, 2533.1, 2534.6, 2534.8, 2540.1, 2540.2, 2540.3, 2540.4, 2560.2, 2561.1, 2561.3, 2561.31, 2561.32, 2563.23, 2563.33; Article 77, Section 2565.3; Sections 2568.8, 2568.15, 2569.1, 2569.6, 2569.7, 2569.20, 2569.51; Article 80, Sections 2571.1 and 2571.16. REPEAL: 2340.23, 2350.11, 2390.83, 2395.7, 2395.33, 2395.43, 2395.50, 2480.8, 2522.8 and 2561.50.	3200.270, 3200.280, 3200.300, 3200.310, 3300, 3310, 3315, 3320, 3350, 3360, 3400, 3410, 3500, 3505, 3510, 3520, 3530, 3530.10, 3530.20, 3530.30, 3530.40, 3540, 3610, 3615, 3620, 3620.05, 3620.10, 3630, 3640, 3650 REPEAL: 3100, 3200.000, 3200.010, 3200.020, 3200.030, 3200.040, 3200.050, 3200.060, 3200.070, 3200.080, 3200.090, 3200.100, 3200.110, 3200.120, 3200.130, 3200.140, 3200.150, 3200.160, 3310, 3400, 3405, 3410, 3415
	<b>Title 10</b>	
	06/24/08	ADOPT: 2232.45.1, 2232.45.2, 2232.45.3, 2232.45.4, 2232.45.5 AMEND: 2536.2
	06/16/08	AMEND: 2318.6, 2353.1
	06/02/08	ADOPT: 10.190202
	05/27/08	AMEND: 2249.2-2249.9, 2249.12, 2249.15
	05/16/08	ADOPT: 2642.8, 2644.28 AMEND: 2642.6, 2642.7, 2644.2, 2644.3, 2644.6, 2644.7, 2644.8, 2644.12, 2644.16, 2644.17, 2644.19, 2644.20, 2644.21, 2644.23, 2644.25, 2644.27
	04/30/08	AMEND: 2697.6, 2697.61
	04/29/08	ADOPT: 10.19900, 10.19901
	04/28/08	AMEND: 310.111
	03/27/08	AMEND: 2699.6500, 2699.6805, 2699.6803
	03/20/08	AMEND: 1950.314.8
	03/18/08	AMEND: 2498.6
	03/12/08	ADOPT: 2699.402 AMEND: 2699.100, 2699.205, 2699.6600, 2699.6607, 2699.6608, 2699.6613, 2699.6625, 2699.6629, 2699.6813
	03/06/08	AMEND: 260.241, 260.241.2 REPEAL: 260.218.5, 260.241.1
	02/22/08	ADOPT: 2695.20, 2695.21, 2695.22, 2695.23, 2695.24, 2695.25, 2695.26, 2695.27, 2695.28
	02/14/08	ADOPT: 2790.8, 2790.9
	02/11/08	AMEND: 5101
	<b>Title 11</b>	
	06/17/08	AMEND: 1005, 1007, 1008, 1080
	05/28/08	AMEND: 2000, 2001, 2010, 2020, 2030, 2037, 2038, 2050, 2051, 2052, 2053, 2060, 2070, 2071, 2072, 2140
	04/14/08	AMEND: 1081
	02/29/08	AMEND: 1009, 1070, 1071, 1082, 1083
	<b>Title 13</b>	
	06/16/08	ADOPT: 156.01
04/11/08	AMEND: 7016(c)	
04/07/08	AMEND: 10116, 10116.1, 10117.1, 10118.1, 10119, 10120, 10121, 10136, 10137, 10225, 10225.1, 10225.2	
04/01/08	ADOPT: 3140, 3141, 3141.1, 3141.2, 3141.3, 3141.4, 3141.5, 3141.6, 3141.7, 3141.8, 3141.9, 3141.10, 3141.11, 3141.12, 3141.13, 3142, 3142.1, 3142.2, 3143, 3144, 3145, 3146 AMEND: 3000, 3001, 3009, 3094.2, 3120.6, 3137	
03/05/08	AMEND: 1504, 1597	
03/05/08	AMEND: 3228	
02/29/08	AMEND: 3270	
<b>Title 9</b>		
03/06/08	AMEND: 10025, 10057, 10515, 10518, 10524, 10545, 10550, 10606, 11014, 11017, 11024, 13070	
02/28/08	ADOPT: 7024.9, 7025.4, 7136.4, 7136.5, 7136.6, 7136.7, 7136.8, 7136.9, 7137, 7138, 7179.4, 7179.5 REPEAL: 7136.5	
02/13/08	ADOPT: 3100, 3200.010, 3200.020, 3200.030, 3200.040, 3200.050, 3200.060, 3200.070, 3200.080, 3200.090, 3200.100, 3200.110, 3200.120, 3200.130, 3200.140, 3200.150, 3200.160, 3200.170, 3200.180, 3200.190, 3200.210, 3200.220, 3200.225, 3200.230, 3200.240, 3200.250, 3200.260,	

06/16/08 AMEND: 1961, 1965  
 06/10/08 AMEND: 2222  
 06/02/08 AMEND: 1141  
 05/16/08 ADOPT: 2449, 2449.1, 2449.2, 2449.3  
 05/01/08 AMEND: 1  
 04/28/08 AMEND: 120.00, 120.01, 120.02, 124.93, 124.95 REPEAL: 120.04  
 04/10/08 AMEND: 1202.1, 1202.2, 1232  
 04/07/08 AMEND: 2451, 2452, 2453, 2458, 2461  
 03/07/08 AMEND: 345.02, 345.06, 345.21, 345.22  
 03/04/08 AMEND: 2485  
 02/08/08 AMEND: 621, 691, 693, 699  
 02/01/08 ADOPT: 1300, 1400, 1401, 1402, 1403, 1404, 1405 REPEAL: 1300, 1301, 1302, 1303, 1304, 1304.1, 1305, 1310, 1311, 1312, 1313, 1314, 1315, 1320, 1321, 1322, 1323, 1324, 1325, 1330, 1331, 1332, 1333, 1334, 1335, 1336, 1337, 1338, 1339, 1339.1, 1339.2, 1339.3, 1339.4, 1339.5, 1339.6, 1340, 1341, 1342, 1343, 1344, 1350, 1351, 1352, 1353, 1354, 1355, 1356, 1360, 1361, 1362, 1363, 1364, 1365, 1366, 1370, 1371, 1372, 1373, 1374, 1375, 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1410, 1411, 1412, 1413, 1414, 1415, 1416, 1417, 1418, 1420, 1421, 1422, 1423, 1424, 1425 and Article 15 text.

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06/23/08 AMEND: 18660.23, 18660.24, 18660.25, 18660.33, 18660.34  
 06/20/08 AMEND: 360, 361, 362, 363, 364, 551, 708, 712  
 06/18/08 ADOPT: 355  
 06/16/08 AMEND: 10602, 10800  
 05/15/08 AMEND: 353, 475  
 05/09/08 AMEND: 27.20, 27.25, 27.30, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.51, 28.52, 28.53, 28.54, 28.55, 28.56, 28.57, 28.58  
 05/02/08 AMEND: 825.05  
 04/28/08 ADOPT: 17987, 17987.1, 17987.2, 17987.3, 17987.4, 17987.5  
 04/28/08 AMEND: 815.05  
 04/25/08 AMEND: 17210.2, 17210.4, 17855.2, 17862, 17867  
 04/07/08 AMEND: 228(b)(1)  
 04/04/08 AMEND: 27.80  
 03/26/08 AMEND: 630  
 03/14/08 ADOPT: 13255.1 AMEND: 13055, 13111, 13169, 13255.0, 13255.1, 13255.2, 13576

03/14/08 ADOPT: 5.79, 5.88, 29.16, 29.91 AMEND: 1.74, 5.80, 5.81, 5.87, 27.90, 27.91, 27.92, 29.15, 29.90, 701  
 03/13/08 AMEND: 671  
 03/10/08 ADOPT: 18218, 18218.1, 18218.2, 18218.3, 18218.4, 18218.5, 18218.6, 18218.7, 18218.8, 18218.9  
 02/28/08 AMEND: 17211.1, 17211.4, 17211.7, 17211.9  
 02/28/08 ADOPT: 749.3  
 02/19/08 AMEND: 7.50  
 02/13/08 ADOPT: 704  
 02/11/08 ADOPT: 787.0, 787.1, 787.2, 787.3, 787.4, 787.5, 787.6, 787.7, 787.8, 787.9  
 01/29/08 ADOPT: 25202, 25203, 25204, 25205, 25206, 25207, 25208, 25209, 25210, 25211  
 01/28/08 ADOPT: 17987, 17987.1, 17987.2, 17987.3, 17987.4, 17987.5

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 06/04/08 AMEND: 3190, 3191  
 05/23/08 ADOPT: 1417 AMEND: 1029, 1206, 1248, 1357, 1358, 1461  
 04/18/08 AMEND: 3291, 3293  
 04/07/08 AMEND: 3173.2  
 03/27/08 ADOPT: 2536.1  
 03/18/08 ADOPT: 3269 AMEND: 3315  
 03/18/08 ADOPT: 3486 AMEND: 3482, 3484, 3485  
 03/06/08 ADOPT: 3355.2 AMEND: 3030, 3050, 3268.2, 3355, 3355.1  
 02/25/08 ADOPT: 3075.4 AMEND: 3000  
 02/04/08 ADOPT: 1700, 1706, 1712, 1714, 1730, 1731, 1740, 1747, 1747.5, 1748, 1749, 1750, 1751, 1752, 1753, 1754, 1756, 1757, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788, 1790, 1792  
 01/23/08 AMEND: 3190, 3191

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06/17/08 ADOPT: 4580  
 06/16/08 ADOPT: 4400, 4402, 4404, 4406, 4420, 4422, 4424, 4426, 4428, 4500, 4520, 4522, 4540, 4542, 4560, 4562  
 06/11/08 REPEAL: 1399.664  
 06/04/08 AMEND: 931  
 05/21/08 AMEND: 4141  
 05/20/08 AMEND: 905  
 05/19/08 ADOPT: 4440, 4442, 4443, 4444, 4446, 4448, 4450, 4452, 4470, 4472, 4474, 4476, 4478, 4480, 4482, 4484  
 05/16/08 AMEND: 1399.696, 1399.697  
 05/12/08 AMEND: 1399.523



05/08/08	REPEAL: 3300	30331, 30332, 30332.1, 30332.2,
05/07/08	ADOPT: 1364.32 AMEND: 1364.30	30332.3, 30332.4, 30332.5, 30332.6,
05/02/08	AMEND: 1079.2	30332.7, 30332.8, 30333, 30333.1,
04/29/08	AMEND: 1970, 1970.4(a), 1973(b)	30333.2, 30334, 30336, 30337 REPEAL:
04/24/08	AMEND: 1387.3	30335
04/24/08	AMEND: 3000	04/03/08 AMEND: 6508
04/17/08	AMEND: 1399.660	04/02/08 AMEND: 93119
04/16/08	ADOPT: 973, 973.1, 973.2, 973.3, 973.4, 973.5, 973.6	04/02/08 AMEND: 93119
04/14/08	AMEND: 1380.1	03/17/08 ADOPT: 100700
04/10/08	AMEND: 4123	03/10/08 ADOPT: 30704, 30712, 30713 AMEND:
04/01/08	AMEND: 1381.5, 1388, 1388.6, 1392	30700, 30701, 30702, 30703, 30710,
03/26/08	AMEND: 3065	30711, 30714, 30720, 30721, 30722,
03/24/08	AMEND: 974	30723, 30730, 30735, 30736, 30740,
03/18/08	AMEND: 1399.651	30741, 30750, 30751, 30752, 30753
03/12/08	AMEND: 1435.2	REPEAL: 30715, 30724, 30734.1
02/19/08	AMEND: 1887.2, 1887.3	03/04/08 ADOPT: 100400, 100401, 100402,
02/15/08	AMEND: 30, 95, 95.2, 95.6	100403, 100404, 100405, 100406,
02/04/08	AMEND: 2751	100407, 100408, 100409, 100410
02/01/08	ADOPT: 1028.2, 1028.3, 1028.4, 1028.5	02/19/08 AMEND: 70100.1, 70200
	AMEND: 1021	02/14/08 ADOPT: 30410, 30410.2 AMEND:
		30421, 30424, 30445, 30447
<b>Title 17</b>		02/13/08 AMEND: 2500, 2502
06/12/08	ADOPT: 94016, 94168 AMEND: 94010, 94011	02/06/08 ADOPT: 2641.56, 2641.57 AMEND:
05/30/08	AMEND: 100080, 100085, 100090, 100100	2641.5, 2641.30, 2641.35, 2641.45,
04/30/08	ADOPT: 35004, 35005.1, 35031, 35088, 36050 AMEND: 35001, 35002, 35003, 35005, 35006, 35007, 35008, 35009, 35010, 35012, 35013, 35014, 35015, 35016, 35018, 35019, 35020, 35021, 35022, 35025, 35026, 35027, 35028, 35029, 35030, 35032, 35033, 35034, 35035, 35036, 35037, 35038, 35039, 35040, 35041, 35042, 35043, 35044, 35045, 35046, 35047, 35048, 35049, 35050, 35051, 35052, 35053, 35054, 35055, 35056, 35057, 35061, 35065, 35066, 35067, 35070, 35072, 35076, 35078, 35080, 35081, 35082, 35083, 35085, 35087, 35089, 35091, 35093, 35095, 35096, 35097, 35099, 36000, 36100 REPEAL: 35023	REPEAL: 2641.75, 2641.77
		02/06/08 ADOPT: 2641.56, 2641.57 AMEND:
		2641.5, 2641.30, 2641.35, 2641.45,
		2641.55, 2643.5, 2643.10, 2643.15
		REPEAL: 2641.75, 2641.77
04/21/08	AMEND: 54355	
04/21/08	AMEND: 93115.4, 93115.6, 93115.10	<b>Title 18</b>
04/18/08	ADOPT: 93120, 93120.1, 93120.2, 93120.3, 93120.4, 93120.5, 93120.6, 93120.7, 93120.8, 93120.9, 93120.10, 93120.11, 93120.12	06/23/08 AMEND: 19503
04/11/08	ADOPT: 30333.05, 30333.07, 30333.3, 30335.1, 30335.2, 30335.3, 30335.4, 30335.5, 30335.6, 30335.10, 30336.1, 30336.5, 30336.6, 30336.7, 30336.8, 30338 AMEND: 30195.3, 30295, 30330,	06/10/08 ADOPT: 2558, 2559, 2559.1, 2559.3, 2559.5
		06/04/08 AMEND: 23038(b)-2, 23038(b)-3
		04/29/08 AMEND: 25137(c)(1)(D)
		04/23/08 AMEND: 1620
		04/10/08 AMEND: 1570
		02/29/08 AMEND: 25128-1
		01/24/08 AMEND: 1699
		01/23/08 AMEND: 101, 171
		01/23/08 AMEND: 101, 171
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		06/06/08 AMEND: 200, 203, 204, 206, 207, 208, 209, 211, 212, 214, 215, 216, 217
		04/23/08 ADOPT: 2660 AMEND: 2720, 2723, 2724, 2725, 2726, 2728
		02/20/08 AMEND: Division 2, Chapter 4, Article 4, Section 2729.2 and Appendices A I, II, III and Appendices B I, II, III
		02/05/08 REPEAL: 3.33
		02/04/08 AMEND: 208, 209

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05/20/08 AMEND: 2323(a), 2323(b), 2323(c), 2323(d), 2323(e), 2323(f), 2325(a), 2329(c), 2329(e), 2330(a), 2332(d), 2333(a), 2335(b)  
04/15/08 ADOPT: 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, Appendix A

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02/15/08 AMEND: 1575

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06/23/08 AMEND: 12805  
06/17/08 ADOPT: 25000, 25102, 25103, 25104, 25201, 25203, 25204, 25301, 25302, 25303, 25304, 25305, 25306, 25401, 25403, 25405, 25501, 25502, 25503, 25504, 25505, 25601, 25701, 25703, 25705, 25707, 25709, 25711, 25713, 25721, 25801, 25803, 25805, 25821, 25900, 25901, 25902, 25903, 27000, 28001, 28002, 28003, 28004, 28006, 28007, 28008, 28009, 28010, 28011, 28012, 28013, 28014, 28015, 28016, 28017, 28018, 28019, 28020, 28021, 28022, 28023, 28024, 28025, 28026, 28027, 28028, 28029, 28030, 28031, 28032, 28033, 28034, 28035, 25036, 28037, 28038, 28039, 28040 REPEAL: 12000, 12102, 12103, 12104, 12201, 12203, 12204, 12301, 12302, 12303, 12304, 12305, 12306, 12401, 12403, 12405, 12501, 12502, 12503, 12504, 12505, 12601, 12701, 12703, 12705, 12707, 12709, 12711, 12713, 12721, 12801, 12803, 12805, 12821, 12900, 12901, 12902, 12903, 14000, 15001, 15002, 15003, 15004, 15006, 15007, 15008, 15009, 15010, 15011, 15012, 15013, 15014, 15015, 15016, 15017, 15018, 15019, 15020, 15021, 15022, 15023, 15024, 15025, 15026, 15027, 15028, 15029, 15030, 15031, 15032, 15033, 15034, 15035, 15036, 15037, 15038, 15039, 15040  
05/08/08 ADOPT: 66260.201 AMEND: 66260.10, 66261.9, 66273.1, 66273.3, 66273.6, 66273.8, 66273.9, 66273.12, 66273.13, 66273.14, 66273.20, 66273.32, 66273.33, 66273.34, 66273.40, 66273.51, 66273.53, 66273.56, 66273.82, 66273.83, 66273.90, Appendix X to Chapter 11

05/06/08 ADOPT: 72038, 72077.1, 72329.1 AMEND: 72077, 72329  
04/18/08 AMEND: 4410 REPEAL: 4410.5  
04/15/08 AMEND: 50960.2, 50960.4, 50960.6, 50960.9, 50960.12, 50960.15, 50960.21, 50960.23, 50960.26, 50960.29, 50960.32, 50960.34, 50960.36, 50962, 50963, 50964, 50965, 50966  
03/27/08 AMEND: 12705(b)  
03/18/08 AMEND: 12000  
03/03/08 AMEND: 926-3, 926-4, 926-5  
02/28/08 AMEND: 51000.3, 51000.30, 51000.50  
02/08/08 ADOPT: 64551.10, 64551.20, 64551.30, 64551.35, 64551.40, 64551.60, 64551.70, 64551.100, 64552, 64554, 64556, 64558, 64560, 64560.5, 64561, 64570, 64572, 64573, 64575, 64576, 64577, 64578, 64580, 64582, 64583, 64585, 64591, 64600, 64602, 64604 AMEND: 64590, 64593, 64654, 64658 REPEAL: 64417, 64555, 64560, 64562, 64563, 64564, 64566, 64568, 64570, 64600, 64602, 64604, 64612, 64622, 64624, 64626, 64628, 64630, 64632, 64634, 64636, 64638, 64640, 64642, 64644  
02/06/08 AMEND: 2708(c)-1  
02/06/08 AMEND: 2708(c)-1

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03/05/08 AMEND: 87101, 87102, 87106, 87107, 87110, 87111, 87112, 87113, 87114, 87115, 87116, 87117, 87118, 87218, 87219, 87219.1, 87220, 87222, 87223, 87224, 87225, 87226, 87227, 87227.1, 87228, 87229, 87230, 87231, 87235, 87236, 87340, 87342, 87342.1, 87343, 87344, 87345, 87346, 87451, 87452, 87453, 87454, 87455, 87455.1, 87457, 87458, 87560, 87561, 87562, 87564, 87564.2, 87564.3, 87564.4, 87564.5, 87565, 87566, 87567, 87568, 87569, 87570, 87571, 87572, 87573, 87574, 87575, 87575.1, 87575.2, 87576, 87577, 87578, 87579, 87580, 87581, 87582, 87583, 87583.1, 87584, 87585, 87586, 87587, 87588, 87589, 87590, 87591, 87592, 87593, 87686, 87689, 87690, 87691, 87692, 87700, 87701, 87701.1, 87701.2, 87701.3, 87701.5, 87702, 87702.1, 87703, 87704, 87705, 87706, 87707, 87708, 87709, 87710, 87711, 87713, 87716, 87716.1, 87720, 87721, 87722, 87724, 87725, 87725.1, 87730,

87730.1, 87730.2, 87731, 87731.1,  
87731.2, 87731.3, 87731.4, 87755,  
87756, 87757, 87758, 87759, 87761,  
87763, 87766, 87768, 87769, 87775,  
87777, 87785, 87786, 87787, 87788,  
87789, 87791, 87792, 87793 REPEAL:  
87725.2

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05/13/08 ADOPT: 3919.3  
05/12/08 AMEND: 3947  
05/12/08 AMEND: 3939.22  
03/10/08 ADOPT: 3919.2  
02/28/08 ADOPT: 3919.1  
02/11/08 ADOPT: 3939.27  
02/08/08 ADOPT: 3939.28  
02/08/08 ADOPT: 3939.30  
02/05/08 ADOPT: 3939.29  
01/24/08 ADOPT: 3939.31

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04/02/08 ADOPT: 7201, 7205, 7205.1, 7205.2,  
7205.3, 7206, 7207, 7209, 7211, 7215,  
7225, 7231 AMEND: 7200, 7202, 7204,  
7206 (renumbered to 7209.5), 7208,  
7210, 7212, 7218 (renumbered to 7217),  
7220, 7222, 7224, 7226, 7228, 7230,  
7232, 7234, 7239 (renumbered to 7201)  
REPEAL: 7214, 7216  
04/01/08 AMEND: 6932

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06/17/08 ADOPT: 25000, 25102, 25103, 25104,  
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25303, 25304, 25305, 25306, 25401,  
25403, 25405, 25501, 25502, 25503,  
25504, 25505, 25601, 25701, 25703,  
25705, 25707, 25709, 25711, 25713,  
25721, 25801, 25803, 25805, 25821,  
25900, 25901, 25902, 25903, 27000,

28001, 28002, 28003, 28004, 28006,  
28007, 28008, 28009, 28010, 28011,  
28012, 28013, 28014, 28015, 28016,  
28017, 28018, 28019, 28020, 28021,  
28022, 28023, 28024, 28025, 28026,  
28027, 28028, 28029, 28030, 28031,  
28032, 28033, 28034, 28035, 25036,  
28037, 28038, 28039, 28040 REPEAL:  
12000, 12102, 12103, 12104, 12201,  
12203, 12204, 12301, 12302, 12303,  
12304, 12305, 12306, 12401, 12403,  
12405, 12501, 12502, 12503, 12504,  
12505, 12601, 12701, 12703, 12705,  
12707, 12709, 12711, 12713, 12721,  
12801, 12803, 12805, 12821, 12900,  
12901, 12902, 12903, 14000, 15001,  
15002, 15003, 15004, 15006, 15007,  
15008, 15009, 15010, 15011, 15012,  
15013, 15014, 15015, 15016, 15017,  
15018, 15019, 15020, 15021, 15022,  
15023, 15024, 15025, 15026, 15027,  
15028, 15029, 15030, 15031, 15032,  
15033, 15034, 15035, 15036, 15037,  
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03/21/08 AMEND: 15100, 15110, 15140, 15150,  
15160, 15170, 15185, 15186, 15187,  
15187.1, 15190, 15200, 15210, 15220,  
15230, 15240, 15241, 15250, 15260,  
15280, 15290, 15300, 15310, 15330,  
15400.2, 15600

02/25/08 ADOPT: 21815 AMEND: 21780, 21790,  
21800, 21820, 21825, 21830, 21840,  
21865, 22234, 22240, 22243, 22244,  
22246, 22247, 22248, 22249, 22249.5,  
22251, 22252, 22253, Division  
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06/04/08 AMEND: 63–301